THE NATIONAL ARCHIVES OF THE UNITED STATES
LITTERA SCRIPTA MANET
1934

FEDERAL REGISTER

VOLUME 16 NUMBER 177

Washington, Wednesday, September 12, 1951

TITLE 3—THE PRESIDENT

TRADE AGREEMENT LETTER

[CARRYING OUT THE TORQUAY PROTOCOL TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE AND FOR OTHER PURPOSES]

THE WHITE HOUSE,
Washington, September 10, 1951.

MY DEAR MR. SECRETARY:

Reference is made to my proclamation of June 2, 1951,[1] carrying out the Torquay Protocol to the General Agreement on Tariffs and Trade, and particularly to the procedure described in Part I (b) (I) of that proclamation.

Germany has signed the Torquay Protocol on September 1, 1951. I hereby notify you that the following (1) complete items in Part I of Schedule XX annexed to the Torquay Protocol (in cases in which only the item designation is specified), (2) portions of such items to which particular rates are applicable (in cases in which the item designation is specified together with only one or more rates of duty), and (3) portions of such items identified by descriptive language (in cases in which the item designation is specified together with descriptive language, with or without the applicable rate of duty) shall not be withheld pursuant to paragraph 4 of the Torquay Protocol on or after October 1, 1951:

Item designation	Rates of duty	Descriptive language
1 [fourth]		
1 [sixth]		
12 [first to sixth inclusive]		
26 [second]		
27 (a) (1) (5) [first]		
27 (a) (1) (5) [second]		
27 (a) (3) (5)		
27 (a) (4) (5)		
28 (a) [third]		
31 (c)		
37	12½% ad val. [second such rate].	
41 [second]		
46 [second]		Lead nitrate.
49 [second]		
55		
65 (a) (3)		
67 [second]		
70		
71		
78 [third]		
81 [third]		
81 [fourth]		
85		
94		
207 [first]		
207 [fourth]		
212	10¢ per dozen separate pieces and 35% ad val. [second such rate].	
218 (f)	30% ad val.	
228 (a)		
228 (b) [first]		
230 (e)		
331 [third]		
340 [second]		
342		
343 [first]		
343 [second]		
352		
353 [second]		All except radio apparatus, instruments and devices.
354 [first]		
354 [second]		
355	1¢ each and 17½% ad val. [first such rate]. 4¢ each and 17½% ad val. [all such rates]. 1¢ each and 12½% ad val. [third such rate].	
356		
357 [first]		
357 [second]		
358		
359		
360 [first]	30% ad val.	
360 [second]		
361		
363		
368 (a) (1) (2)		
368 (c) (1) (2) (3) (4) (5) (6).		
368 (d)		
372 [first]		
372 [third]		Printing machinery.
372 [fourth]		
372 [fifth]		
372 [sixth]		
372 [ninth]		Forged steel grinding balls, and parts of printing machinery, of knitting machines and similar textile machery, of looms, of cream separators and of calculating machines specially constructed for multiplying and dividing.
382 (a) [first]		
382 (a) [second]		
388		
395		
396 [first]		
396 [second]		
396 [third]		

[1] Proclamation 2929, 16 F. R. 5381.

(Continued on p. 9217)

CONTENTS

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

CODIFICATION GUIDE—Con.

Item designation	Rates of duty	Descriptive language
397	2¢ per lb. but not less than 15% nor more than 30% ad val.	
412 [first]	25% ad val.	
753 [fourth]		
911 (a)	15% ad val. but not less than 7½¢ per lb.	
912 [first]		All except garters, suspenders, and braces.
1107		
1403		
1405 [fifth]		
1406 [third]		
1407 (a)		
1413 [second]		
1413 [fourth]		
1506 [first]		
1513 [second]		
1513 [third]		
1513 [fifth]		
1513 [sixth]		
1513 [seventh]		
1527 (c) (2)	55% ad val. [second such rate].	
	55% ad val. [third such rate].	Parts of mesh bags.
1531		
1536		
1537 (b) [second]		
1541 (a) [first]	20% ad val. [second such rate].	
1541 (a) [fourth]		
1541 (a) [eighth]		
1549 (a) [first]		
1549 (a) [second]		
1549 (b) [first]		
1549 (b) [second]		
1549 (b) [third]		
1551		
1667		
1757		
1793		

Reference is also made to the thirteenth recital of my proclamation of June 2, 1951 regarding amendments to the list of Cuban products entitled to preferential treatment pursuant to Proclamation 2764 of January 1, 1948. It will be noted that items 412 [first], 1513 [third], 1513 [sixth], 1513 [seventh], in Part I of Schedule XX to the Torquay Protocol are being notified to you as not being withheld on and after October 1, 1951. Consequently, the modifications of the list in the ninth recital of the proclamation of January 1, 1948, as amended and rectified, which are set forth in the thirteenth recital to the right of these designations will be effective on and after October 1, 1951.

Very sincerely yours,

HARRY S. TRUMAN

Hon. JOHN W. SNYDER,
Secretary of the Treasury.

[F. R. Doc. 51-11014; Filed, Sept. 10, 1951; 4:07 p. m.]

RULES AND REGULATIONS

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

Subchapter A—Commodity Standards and Standard Container Regulations

PART 33—EXPORT APPLES AND PEARS

MINIMUM QUALITY REQUIREMENTS FOR SHIPMENTS IN EXPORT

On August 16, 1951, notice of proposed rule making was published in the FEDERAL REGISTER (16 F. R. 8139) regarding proposed amendments to the regulations (7 CFR Part 33) governing the exportation of apples and pears, operative under the provisions of the so-called Export Apple and Pear Act (48 Stat. 123; 7 U. S. C. 581-589). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, § 33.13 *Minimum quality requirements for shipments in export* of the regulations is amended as hereinafter ordered.

Paragraphs (a) and (b) of § 33.13 are hereby amended to read as follows:

§ 33.13 *Minimum quality requirements for shipments in export*—(a) *Apples.* Any lot of apples in packages shipped or transported in foreign commerce must meet each minimum requirement of the U. S. Utility grade or the U. S. No. 1 Early grade, as specified in the United States Standards for Apples (16 F. R. 5919; 7 CFR 51.104), subject to the tolerances for the applicable grade, except that such apples shall not contain apple maggots and, of such apples, not more than 2 percent may have apple maggot injury and not more than 2 percent may be infested with San Jose scale: *Provided,* That any lot of apples in containers conspicuously marked "cannery" may be shipped or transported, as aforesaid, if such lot of apples meets each minimum requirement of the U. S. No. 2 grade, as specified in the U. S. Standards for Apples for Processing (16 F. R. 8511; 7 CFR 51.106), subject to a tolerance of 10 percent for defects of this grade and an additional tolerance of 5 percent for apples below any specified minimum size, and an additional tolerance of 10 percent for apples above any specified maximum size.

(b) *Pears.* Any lot of pears in packages shipped or transported in foreign commerce must meet each minimum requirement of the applicable U. S. No. 2 grade, as specified (1) in the U. S. Standards for Summer and Fall Pears, such as Bartlett, Hardy, and other similar varieties (12 F. R. 3800; 7 CFR 51.331), or (2) in the U. S. Standards for Winter Pears, such as Anjou, Bosc, Winter Nelis, Comice, and other similar varieties (14 F. R. 7415, 7479; 7 CFR 51.332), subject to the tolerances permitted for such applicable grade, except that such pears shall not contain apple maggots and, of such pears, not more than 2 percent may have apple maggot injury and not more than 2 percent may be infested with San Jose scale: *Provided,* That any lot of pears in containers conspicuously marked "cannery" may be shipped or transported, as aforesaid, if such lot of pears meets each minimum requirement of the U. S. No. 2 grade, as specified in the U. S. Standards for Pears for Canning (16 F. R. 8511; 7 CFR 51.333), subject to an aggregate tolerance of 10 percent for defects of this grade.

The amendments set forth herein shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

(48 Stat. 123; 7 U. S. C. 581-589)

Done at Washington, D. C., this 7th day of September 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-10953; Filed, Sept. 11, 1951; 8:47 a. m.]

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter I—Determination of Prices

[Sugar Determination 873.4]

PART 873—SUGARCANE; FLORIDA

1951 CROP

Pursuant to the provisions of section 301 (c) (2) of the Sugar Act of 1948 (hereinafter referred to as "act"), after investigation, and due consideration of the evidence presented at the public hearing held at Clewiston, Florida, on May 5, 1951, the following determination is hereby issued:

§ 873.4 *Fair and reasonable prices for the 1951 crop of Florida sugarcane.* Processor-producers of sugarcane in Florida who apply for payments under the act shall be deemed to have complied with the provisions of section 301 (c) (2) of the act with respect to the 1951 crop, if the requirements of this determination are met.

(a) *Definitions.* For the purpose of this section, the term: (1) "Price of raw sugar" means the price of 96° raw sugar in New York (duty paid basis, delivered) as determined in prior years; except that if the Director of the Sugar Branch determines that such price does not reflect the true market value of sugar, because of inadequate volume or other factors, he may designate the price to be effective under this determination.

(2) "Standard sugarcane" means sugarcane containing 12.5 percent sucrose in the normal juice.

(3) "Net sugarcane" means sugarcane, as delivered by a producer to a processor-producer from which has been deducted the weight of trash determined in the customary manner.

(4) "Salvage sugarcane" means sugarcane containing less than 9.5 percent sucrose in the normal juice.

(b) *Basic price.* (1) The basic price for standard sugarcane shall be not less than $1.10 per ton for each one cent of the average price of raw sugar determined in accordance with whichever of the following options is agreed upon:

(i) The simple average of the daily prices of raw sugar for the week in which the sugarcane is delivered; or

(ii) The simple average of the weekly prices of raw sugar for the period beginning October 12, 1951, through May 29, 1952.

(2) The basic price for salvage sugarcane shall be as agreed upon between the processor-producer and the producer.

(c) *Conversion of net sugarcane to standard sugarcane.* Except for salvage sugarcane, net sugarcane shall be converted to standard sugarcane by applying to the average sucrose content of all sugarcane delivered by a producer during the optional period agreed upon under paragraph (b) (1) of this section, the applicable quality factor in accordance with the following table:

Average percent sucrose on normal juice:[1]	*Standard sugarcane quality factor*
9.5	0.70
10.0	.75
10.5	.80
11.0	.85
11.5	.90
12.0	.95
12.5	1.00
13.0	1.05
13.5	1.10
14.0	1.15
14.5	1.20
15.0	1.25
15.5	1.30

[1] Intermediate points within the scale are to be in proportion. Points above 15.5 percent sucrose in the normal juice are to be in proportion to the immediately preceding interval.

(d) *Molasses payment.* On each ton of net sugarcane ground there shall be paid to the producer a molasses payment equal to the product of 6.3 and one-half of the net liquidation from the disposal of blackstrap or final molasses in excess of 4.75 cents per gallon, f. o. b. sugarhouse tanks, during the 12 month period ending May 31, 1952.

(e) *General.* (1) The established customs and practices with respect to methods of sucrose analysis, deductions for frozen sugarcane because of decreased boiling house efficiency, fiber content determinations and deductions, and definitions of delivery points, delivery schedules and similar terms, as employed in connection with the purchase of the 1950 crop shall be employed in connection with the purchase of the 1951 crop; except that nothing in this subparagraph shall be construed as prohibiting modifications of customs and practices which may be necessary because of unusual circumstances, any such modification to be subjet to review by the Director of the Sugar Branch.

(2) In the event a general freeze results in abnormally low recoveries of raw sugar by a processor-producer in relation to the sucrose test of sugarcane, payment for such sugarcane may be made as mutually agreed upon between the producer and the processor-producer subject to approval by the Director of the Sugar Branch.

(3) The processor-producer shall not reduce returns to the producer below those determined herein through any subterfuge or device whatsoever.

STATEMENT OF BASIS AND CONSIDERATIONS

(a) *General.* The foregoing determination provides fair and reasonable prices to be paid by a processor-producer (i. e., a producer who is directly or indirectly a processor of sugarcane—hereinafter referred to as "processor") for sugarcane of the 1951 crop purchased from other producers. It prescribes the minimum requirements with respect to prices for sugarcane which must be met as one of the conditions for payment under the act. In this statement the foregoing determination, as well as determinations for prior years, will be referred to as "price determination", identified by the crop year for which effective.

(b) *Requirements of the act.* The act requires that in determining fair and reasonable prices public hearings be held and investigations made. Accordingly, on May 5, 1951, a public hearing was held at Clewiston, Florida, at which time interested persons presented testimony with respect to fair and reasonable prices for the 1951 crop of sugarcane. In addition, investigations have been made of the conditions relating to the sugar industry in Florida. In this price determination, consideration has been given to the testimony presented at the hearing and to information resulting from the investigations.

(c) *Background.* In the past practically all of the sugarcane produced by independent producers in Florida has been purchased by one processor. Prior to the enactment of the Sugar Act of 1937, such sugarcane was purchased according to terms of contracts negotiated annually between the parties. These contracts provided a scale of payments for sugarcane based on the average price of raw sugar at New York and on the quality of sugarcane measured by sucrose in the crusher juice. In 1938 a five-year purchase contract was negotiated, but since its expiration in 1942 formal contracts have not been used.

Determinations of fair and reasonable prices for sugarcane in Florida have been issued for each crop beginning with the 1937 crop. The 1937 price determination generally approved the pricing structure contained in sugarcane purchase contracts between the processor and producers. During the period from 1937 through 1948 a number of significant changes were made in price determinations. These changes were designed in large measure to conform settlements to methods used in the western Louisiana sugarcane region.

In the 1949 price determination the pricing structure was completely revised to provide for the sharing of total returns to the Florida sugarcane industry more in line with current production and manufacturing conditions. The following changes were made: (1) The basic price per ton of standard sugarcane was increased from $1.03 to $1.10 for each one cent of the average price of raw sugar and the scale of price factors related to lower sugar prices, provided in prior determinations, was eliminated; (2) the freight deduction to equalize settlements for sugarcane with those of western Louisiana was eliminated; (3) standard sugarcane was redefined as sugarcane containing 12.5 percent sucrose in the normal juice rather than 11 percent; (4) sugarcane quality factors used to convert net sugarcane to standard sugarcane were redueed by 0.15 at all levels of sucrose; (5) salvage sugarcane was defined as sugarcane containing less than 9.5 percent sucrose in the normal juice; and (6) the molasses payment per ton of net sugarcane was revised to provide for producer participation in the net returns from molasses above 4.75 cents per gallon rather than 6.75 cents per gallon, and for the computation of such payment on the basis of 3 gallons of molasses rather than 2.75 gallons.

The 1950 price determination continued the pricing arrangements effective for the 1949 crop, except for the addition of a requirement that the conversion of actual sugarcane to standard sugarcane be made on the basis of the average sucrose content of all sugarcane (excluding salvage sugarcane) delivered by a producer during the basic pricing period. This change was made to conform the requirements of the determination to established settlement practices.

(d) *1951 price determination.* The 1951 price determination continues the pricing arrangements effective for the 1950 crop except in two respects. One, molasses payments to producers will be based on 6.3 gallons per ton of sugarcane, the average production for the preceding five crops, instead of 6 gallons. Two, an alternative method of payment for frozen sugarcane has been provided to be used only in the event of a general freeze.

When the provision for producer participation in molasses proceeds first was provided in the 1942 price determination, payments were based upon 5.5 gallons per ton of sugarcane, the average recovery of molasses by the largest sugarcane processor. Subsequently, the production of molasses per ton of sugarcane increased considerably and in the 1949 price determination the basis of settlement was revised to 6 gallons. In recent years molasses recoveries have further increased and for this reason the basis of settlement again has been revised to reflect current production.

At the public hearing a processor representative recommended that the standard sugarcane quality factor be decreased by 2 percent instead of 1 percent for each one-tenth percent decline in sucrose below 10.5 percent sucrose in normal juice. The witness stated that in his opinion the quality scale of the 1950 price determination did not properly reflect probable recoveries of raw sugar at low sucrose levels and under the scale the processor would be required to process low quality sugarcane at a loss. The witness stated his primary concern was the possibility of a freeze resulting in damage to large quantities of sugarcane which the processor may have to reject. To provide for such a possibility, this determination contains a provision for an alternative method of payment for frozen sugarcane which may be applied only in the event that a general freeze damages large quantities of sugarcane and results in recoveries abnormally low in relation to the sucrose tests. Payments for such sugarcane will be determined by mutual agreement between producers and a processor but such agreement is contingent upon approval of the Director of the Sugar Branch.

In analysing the 1951 price determination the Department had available a study of returns, costs and profits of the Florida sugar industry. Although the study covered the 1945 through the 1948 crops, the data have been restated for the 1951 crop in terms of conditions known or expected to prevail. The analysis indicates that because of increases in labor and material costs, production and processing costs for the 1951 crop will be somewhat higher than for the 1950 crop. Such cost increases will fall in about equal proportion on both producers and processors. Consideration has been given these data as well as other economic influences. On the basis of the examination, it appears that the continuation in the 1951 price determination of the basic sharing relationship established for the 1950 crop is fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing price determination will effectuate the price provisions of the Sugar Act of 1948.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies sec. 301, 61 Stat. 929; 7 U. S. C. Sup. 1131)

Issued this 7th day of September 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-10986; Filed, Sept. 11, 1951; 8:52 a. m.]

[Sugar Determination 874.4]

PART 874—SUGARCANE; LOUISIANA

1951 CROP

Pursuant to the provisions of section 301 (c) (2) of the Sugar Act of 1948 (herein referred to as "act"), after investigation, and due consideration of the evidence presented at the public hearing held in Thibodaux, Louisiana, on July 11, 1951, the following determination is hereby issued:

§ 874.4 *Fair and reasonable prices for the 1951 crop of Louisiana sugarcane.* Processor-producers of sugarcane in Louisiana who apply for payments under the act shall be deemed to have complied with the provisions of section 301 (c) (2) of the act with respect to the 1951 crop, if the requirements of this section are met.

(a) *Definitions.* For the purpose of this determination, the term—

(1) "Price of raw sugar" means the price of 96° raw sugar quoted by the Louisiana Sugar Exchange, Inc.; except that if the Director of the Sugar Branch determines that such price does not reflect the true market value of sugar, because of inadequate volume, failure to report sales in accordance with the rules of such Exchange or other factors, he may designate the price to be effective under this determination.

(2) "Price of blackstrap molasses" means the price per gallon of blackstrap molasses quoted by the Louisiana Sugar Exchange, Inc.; except that if the Director of the Sugar Branch determines that such price does not reflect the true market value of blackstrap molasses, because of inadequate volume, failure to report sales in accordance with the rules of such Exchange or other factors, he may designate the price to be effective under this determination.

(3) "Trash" means green or dried leaves, loose sugarcane tops, attached sugarcane tops at or above the green leaf roll, dirt and all other extraneous material which is representative of the quantity of sugarcane from which the sample for trash determination is taken.

(4) "Salvage sugarcane" means sugarcane containing either less than 9.5 percent sucrose in the normal juice or less than 68 purity in the normal juice.

(5) "Actual sugarcane" means sugarcane as delivered by a producer to a processor-producer.

(6) "Standard sugarcane" means sugarcane, free of trash, containing 12 percent sucrose in the normal juice with a purity of at least 76.50 but not more than 76.99.

(b) *Basic price.* (1) The basic price for standard sugarcane shall be not less than $1.06 per ton for each one cent of the average price of raw sugar determined in accordance with whichever of the following options is agreed upon: (i) The simple average of the daily prices of raw sugar for the week in which the sugarcane is delivered; or (ii) the simple average of the weekly prices of raw sugar for the period October 5, 1951 (or the Friday within the first week of actual trading), through January 31, 1952: *Provided,* That the average price of raw sugar as determined under subdivisions (i) or (ii) of this subparagraph may be reduced by not more than the following:

(*a*) 0.065 cent for mills located north of Bayou Goula between the Atchafalaya and Mississippi Rivers and southeast of New Iberia west of the Atchafalaya River; or

(*b*) 0.10 cent for mills located north and west of New Iberia west of the Atchafalaya River.

(2) The basic price for salvage sugarcane shall be as agreed upon between the processor-producer and the producer.

(c) *Conversion of actual sugarcane to standard sugarcane.* Except for salvage sugarcane, actual sugarcane shall be converted to standard sugarcane as follows:

(1) By deducting the weight of trash from the combined weight of sugarcane and trash delivered;

(2) By multiplying the net quantity of sugarcane determined pursuant to subparagraph (1) of this paragraph by the applicable quality factor in the following table:

Percent sucrose in normal juice:[1]	*Standard sugarcane quality factor*
9.5	0.60
10.0	.70
10.5	.80
11.0	.90
11.5	.95
12.0	1.00
12.5	1.05
13.0	1.10
13.5	1.15
14.0	1.20
14.5	1.25

[1] Intermediate points within the scale are to be in proportion. Points above 14.5 percent sucrose in normal juice are to be in proportion to the immediately preceding interval.

(3) By multiplying the adjusted quantity determined pursuant to subparagraph (2) of this paragraph by the applicable purity factor in the following table:

Purity of normal juice		Standard sugarcane purity factor [1] (percent sucrose in normal juice)																
		At least—	9.50	9.70	9.90	10.10	10.30	10.50	11.00	11.50	12.00	12.50	13.00	13.50	14.00	14.50	15.00	15.50
At least—	But not more than—	But not more than—	9.69	9.89	10.09	10.29	10.49	10.99	11.49	11.99	12.49	12.99	13.49	13.99	14.49	14.99	15.49	15.99
68.00	68.24		1.000	0.989	0.978	0.967	0.956	0.945	0.936	0.929	0.922	0.915	0.908	0.901	0.894	0.887	0.880	0.873
68.25	68.49		1.005	.993	.982	.971	.960	.949	.941	.934	.927	.920	.913	.906	.899	.892	.885	.878
68.50	68.99		1.010	.998	.987	.976	.965	.954	.946	.939	.932	.925	.918	.911	.905	.899	.893	.887
69.00	69.49		1.015	1.003	.992	.981	.970	.959	.950	.943	.936	.929	.922	.915	.909	.903	.897	.891
69.50	69.99		1.021	1.009	.997	.986	.975	.964	.955	.948	.941	.934	.927	.920	.914	.908	.902	.896
70.00	70.49		1.025	1.013	1.001	.990	.979	.968	.960	.953	.945	.938	.931	.924	.918	.912	.906	.900
70.50	70.99		1.030	1.018	1.006	.995	.984	.973	.965	.958	.950	.943	.936	.929	.923	.917	.911	.905
71.00	71.49		1.035	1.023	1.011	.999	.988	.977	.969	.962	.954	.947	.940	.933	.927	.921	.915	.909
71.50	71.99		1.040	1.028	1.016	1.004	.993	.982	.974	.966	.959	.951	.945	.938	.932	.926	.920	.914
72.00	72.49		1.045	1.033	1.021	1.009	.998	.987	.978	.970	.963	.955	.949	.942	.936	.930	.924	.918
72.50	72.99		1.050	1.038	1.026	1.014	1.003	.992	.983	.975	.967	.960	.954	.947	.940	.934	.928	.922
73.00	73.49		1.055	1.043	1.031	1.019	1.007	.996	.987	.979	.971	.964	.958	.951	.944	.938	.932	.926
73.50	73.99		1.060	1.048	1.036	1.024	1.012	1.000	.991	.984	.976	.968	.962	.955	.948	.942	.936	.930
74.00	74.49		1.065	1.052	1.040	1.028	1.016	1.004	.995	.988	.980	.972	.966	.959	.952	.946	.940	.934
74.50	74.99			1.057	1.044	1.032	1.020	1.008	1.000	.992	.984	.977	.970	.963	.956	.950	.944	.938
75.00	75.49			1.062	1.049	1.036	1.024	1.012	1.004	.996	.988	.981	.974	.967	.960	.954	.948	.942
75.50	75.99				1.054	1.041	1.028	1.016	1.008	1.000	.992	.985	.978	.971	.964	.958	.952	.946
76.00	76.49				1.059	1.046	1.033	1.020	1.011	1.004	.996	.988	.981	.974	.967	.961	.955	.949
76.50	76.99					1.051	1.038	1.025	1.015	1.008	1.000	.992	.985	.978	.971	.965	.959	.953
77.00	77.49					1.054	1.041	1.028	1.019	1.011	1.004	.996	.989	.981	.975	.969	.963	.957
77.50	77.99						1.045	1.032	1.023	1.015	1.008	1.000	.993	.985	.979	.973	.967	.961
78.00	78.49						1.049	1.035	1.027	1.019	1.011	1.003	.996	.989	.982	.976	.970	.964
78.50	78.99							1.039	1.031	1.023	1.015	1.007	1.000	.993	.986	.980	.974	.968
79.00	79.49							1.042	1.035	1.026	1.018	1.010	1.003	.996	.989	.983	.977	.971
79.50	79.99								1.039	1.030	1.022	1.014	1.007	1.000	.993	.987	.981	.975
80.00	80.49								1.043	1.033	1.025	1.017	1.010	1.003	.996	.990	.984	.978
80.50	80.99									1.037	1.029	1.021	1.014	1.007	1.000	.994	.988	.982
81.00	81.49									1.040	1.032	1.024	1.017	1.010	1.003	.997	.991	.985
81.50	81.99										1.036	1.028	1.021	1.014	1.006	1.000	.994	.988
82.00	82.49										1.039	1.032	1.024	1.017	1.009	1.003	.997	.991
82.50	82.99											1.035	1.027	1.020	1.013	1.007	1.000	.995
83.00	83.49											1.038	1.030	1.023	1.016	1.010	1.004	.998
83.50	83.99												1.033	1.027	1.019	1.013	1.007	1.000
84.00	84.49												1.036	1.030	1.022	1.016	1.010	1.004
84.50	84.99													1.033	1.025	1.019	1.013	1.007
85.00	85.49														1.028	1.022	1.016	1.010

[1] Factors applicable to higher sucrose and purity of the normal juice than shown in this table shall be determined by the same method of calculation used to compute the) factors specified and shall be furnished by the Louisiana State Office of the Production and Marketing Administration, Baton Rouge, Louisiana, upon request.

(d) *Molasses payment.* Except for salvage sugarcane there shall be paid for each ton of actual sugarcane, minus trash, an amount equal to the product of 6.9 and one-half of the average price per gallon of blackstrap molasses in excess of 6 cents. The average price of blackstrap molasses shall be either the simple average of the daily prices for the week in which the sugarcane is delivered or the simple average of the weekly prices of blackstrap molasses for the period October 5, 1951 (or the Friday within the first week of actual trading) through January 31, 1952, as agreed upon between the processor-producer and the producer.

(e) *General.* (1) The sucrose and purity of the normal juice shall be determined by acceptable methods of analysis on actual sugarcane, such methods to be subject to the approval of the Louisiana State Office of the Production and Marketing Administration.

(2) Because of decreased boiling house efficiency deductions may be made from the payment for frozen sugarcane accepted by the processor-producer provided such deductions are at rates not in excess of 1.5 percent of the payment, computed without regard to the molasses payment, for each 0.1 cc. of acidity above 2.50 cc. of N/10 alkali per 10 cc. of juice but not in excess of 4.75 cc. (intervening fractions are to be computed to the nearest multiple of 0.05 cc.). Frozen sugarcane testing in excess of 4.75 cc. of acidity shall be considered as having no value. Sugarcane shall not be considered as frozen, even after being subjected to freezing temperature, unless and until there is evidence of damage having taken place because of the freeze, such evidence to be certified by the Louisiana State Office of the Production and Marketing Administration.

(3) In the event a general freeze results in abnormally low recoveries of raw sugar by a processor-producer in relation to the sucrose and purity tests of sugarcane, payment for such sugarcane may be made by mutual agreement between the producer and the processor-producer, subject to approval by the Louisiana State Office of the Production and Marketing Administration: *Provided,* That the payment for each ton of actual sugarcane, minus trash, delivered by a producer shall be not less than an amount equal to the total returns from raw sugar and molasses actually recovered from such sugarcane, determined on the basis of the simple average of the weekly prices of raw sugar and blackstrap molasses for the period October 5, 1951 (or the Friday within the first week of actual trading) through January 31, 1952, less an amount not to exceed $3.00 per actual ton for processing and less actual costs of hoisting, field weighing and transporting such sugarcane.

(4) Costs of hoisting and weighing sugarcane, which were absorbed by the processor-producer for the 1950 crop, shall be absorbed by the processor-producer for the 1951 crop; but nothing in this subparagraph shall be construed as prohibiting negotiations with respect to the level of such absorptions, subject to the approval of the Louisiana State Office of the Production and Marketing Administration.

(5) Allowances made to producers for transporting sugarcane from the customary delivery points to the mill which were made by the processor-producer for the 1950 crop, shall be made by the processor-producer for the 1951 crop: *Provided,* That nothing in this subparagraph shall be construed as requiring the processor-producer to make allowances to producers in excess of the actual costs or rates charged by a commercial carrier for the customary method of transportation: *Provided further,* That where the only available practicable means of transportation are rail facilities and the distance to the nearest mill is in excess of 50 miles or where, because of unusual circumstances, the cost of transporting sugarcane is in excess of customary allowances, such costs may be shared by the processor-producer and the producer by agreement, subject to the approval of the Louisiana State Office of the Production and Marketing Administration.

(6) If a processor-producer and the producers delivering sugarcane to such processor-producer agree upon a plan for the hiring of inspectors whose duties shall be (i) to inspect fields of sugarcane, suggest proper methods of harvesting, and obtain adherence to cutting and delivery schedules, and (ii) to determine the trash content of all sugarcane delivered to a processor-producer, and, if the control of such inspectors is exercised jointly by the processor-producer and producers or by a general committee of processors and producers, there may be deducted from the price per ton of sugarcane an

amount equal to one-half of the cost of such inspection but not in excess of 1½ cents per ton of such sugarcane. Such deductions may not be made until a statement in writing setting forth the proposed plan jointly signed by authorized representatives of producers and processors has been filed with and approved by the Louisiana State Office of the Production and Marketing Administration.

(7) The processor-producer shall not reduce the return from the 1951 crop of Louisiana sugarcane to the producer below those determined herein through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination provides fair and reasonable prices to be paid by a processor-producer (i. e., a producer who is directly or indirectly a processor of sugarcane—hereinafter referred to as "processor") for sugarcane of the 1951 crop purchased from other producers. It prescribes the minimum requirements with respect to prices which must be met as one of the conditions for payment under the act. In this statement the foregoing determination, as well as determinations for prior years, will be referred to as "price determination", identified by the crop year for which effective.

(b) *Requirements of the Act.* In determining fair and reasonable prices, the act requires that public hearings be held and investigations made. Accordingly, a public hearing was held in Thibodaux, Louisiana, on July 11, 1951, at which time interested parties presented testimony with respect to fair and reasonable prices for the 1951 crop of sugarcane. In addition, investigations have been made of conditions relating to the sugar industry in Louisiana. In this price determination consideration has been given to the testimony presented at the hearing and to information resulting from the investigations.

(c) *Background.* Determinations of fair and reasonable prices for sugarcane in Louisiana have been issued for each crop beginning with the 1937 crop. The 1937 price determination approved the basic price structure contained in sugarcane purchase contracts agreed upon between producers and processors. From that time until the 1949 crop price determinations have continued in effect, with only minor modifications, the historic basic pricing structure.

In 1949 and 1950, numerous changes were made in the price determinations for Louisiana in an effort to improve the economic condition of the industry. Major changes included: (1) The basic price per ton of standard sugarcane was increased from $1.03 to $1.06 for each one cent of raw sugar price and appropriate allowances were provided for mills located in high cost freight districts, (2) a uniform quality scale was established which eliminated the use of various quality scales used in the several districts, (3) standard sugarcane was redefined as fresh and trash free, testing 12 percent sucrose in the normal juice with a purity of at least 76.50 but not more than 76.99, (4) the provision for molasses payments was revised to permit participation by producers in returns from blackstrap molasses above the price of 6 cents per gallon rather than above 8 cents per gallon as in previous determinations, (5) deductions for acidity and frozen sugarcane were revised to recognize the higher acidities in new varieties of sugarcane, (6) trash was defined to include all extraneous materials and the tolerance permitted under prior determinations was eliminated, and (7) the definition of salvage sugarcane was revised to include sugarcane, the normal juice of which contained less than 9.5 percent sucrose or less than 68 purity.

The purpose of these changes, together with others of less significance, was to encourage the delivery of fresh and trash-free sugarcane, and to gear payments more closely to the quality of sugarcane delivered by individual producers. The net effect of the revisions was to return to producers as a whole about the same percentage of total returns from sugar as they received for standard sugarcane during the previous five years.

(d) *1951 price determination.* The 1951 price determination continues the provisions of the 1950 price determination except for two changes. One is that settlement for molasses will be based on 6.9 gallons per ton of sugarcane instead of on 6.5 gallons. When molasses payments were first made a part of price determinations, producer participation was based on 6.5 gallons which was the average actual production of blackstrap molasses per ton of sugarcane for the 1938–1940 crops. Since that time changing conditions have resulted in an increase in the production of molasses so that 6.5 gallons no longer reflects current production. It is desirable, therefore, to revise the basis of settlement for molasses to conform more nearly to current production. For this purpose the average production for the five-year period 1946 through 1950 has been selected.

The second change establishes an alternative method of payment for sugarcane which has been frozen to the extent that recovery of raw sugar by a processor is abnormally low in relation to the sucrose and purity tests. Under this provision the producer and the processor may agree upon the payment for such sugarcane provided that the price shall not be less than the total value of raw sugar and molasses recovered from such sugarcane minus the actual costs of hoisting, field weighing, transportation and an amount not to exceed $3.00 per ton for processing. This alternative method of settlement will be used in the event of a general freeze in Louisiana and only upon approval of the Louisiana State Office of the Production and Marketing Administration.

At the public hearing the Louisiana Grower-Processor Committee presented a unanimous recommendation that the provisions of the 1950 price determination be continued for the 1951 crop, except for the alternative method of payment for frozen sugarcane. The spokesman for the Committee stated that in arriving at its decision the Committee had carefully considered the relative position of processors and producers. The Committee did not believe that one year's operation under the revised provisions of the 1950 price determination provided a satisfactory basis, in the light of long-run operations, upon which to recommend sound revisions in the sharing relationship.

In this determination consideration has been given to the returns, costs, profits and related factors of the Louisiana sugar industry. Returns to producers and processors for the 1950 crop were extremely favorable as compared with previous crops because of unusually high yields and sugar content as well as the large volume of sugarcane processed. Under conditions likely to prevail for the 1951 crop it is not expected that returns will be as favorable as for the 1950 crop because of increases in producing and processing costs and the smaller crop. Although the impact of changes for the 1951 crop is expected to affect processors to a lesser degree than producers, consideration of all factors indicates that no change should be made in the basic sharing relationship for the 1951 crop.

Accordingly, I hereby find and conclude that the foregoing price determination is fair and reasonable and will effectuate the price provisions of the act.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies sec. 301, 61 Stat. 929; 7 U. S. C. Sup. 1131)

Issued this 7th day of September 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-10985; Filed, Sept. 11, 1951; 8:51 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[5th Gen. Rev. of Export Regs., Amdt. 72[1]]

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

PART 380—AMENDMENTS, EXTENSIONS, TRANSFERS

PART 398—PRIORITY RATINGS AND SUPPLY ASSISTANCE ASSIGNED BY OIT

MISCELLANEOUS AMENDMENTS

1. Section 372.8 *Disclosure on license applications of prior detention of commodities by Customs* is amended to read as follows:

§ 372.8 *Disclosure of prior action on the shipment*—(a) *Prior detention of commodities by Customs.* Any exporter or his agent making application to the Office of International Trade for an export license, who shall know or have

[1] This amendment was published in Current Export Bulletin No. 636, dated August 30, 1951.

reasonable cause to believe that a collector of customs has detained commodities which would be exportable under such license, if granted, shall disclose to the Department of Commerce at the time of applying for such license the fact that the collector of customs has detained the commodities. Any license obtained without full disclosure of that fact shall be deemed to have been obtained without disclosure of all facts material to the granting of the license, and any license so obtained shall be void.

(b) *Prior exportation without a license.* No export license application shall be submitted to the Office of International Trade covering a shipment that is already laden aboard the exporting carrier or exported. In such cases where the shipment should have been authorized by a validated license, the exporter should send a letter or wire to the Exporters' Service Section, Office of International Trade, Department of Commerce, Washington 25, D. C., Attn: IT–1230, explaining why a validated license was not obtained and disclosing all the facts concerning the shipment that would normally have been disclosed on the license application. The Office of International Trade will inform the exporter of its action and instructions to him in the matter by letter. Any license covering such shipments obtained without such disclosure shall be deemed to have been obtained without disclosure of all facts material to the granting of the license, and any license so obtained shall be void.

NOTE: See § 380.2 (d) and § 380.4 (d) with respect to amendments to licenses and extensions of validity periods of licenses to authorize shipments described in this section.

This part of the amendment shall become effective as of August 30, 1951.

2. SECTION 372.12 *Weight and volume tolerance* is amended in the following particulars:

Paragraph (b) *Unit of quantity covered* is amended to read as follows:

(b) *Unit of quantity covered.* This tolerance is allowed only when the unit of quantity called for on the license is in the following weight or volume terms:

Avoirdupois ounce.	M (1,000) board feet.
Bale.	Milligram.
Barrel.	Oxford unit.
Cubic foot.	Pound.
Gallon.	Pound content.
Gram.	Proof gallon.
Hundredweight (100 pounds).	Short ton (2,000 pounds).
Linear foot.	Square foot.
Linear yard.	Square yard.
Long ton (2,240 pounds).	Troy ounce.
	U. S. P. unit.

The weight and tolerance provisions of § 372.12 shall not apply to the following units of quantity:

Carat.	Pencil gross.
Cell.	Piece.
Dozen.	Ream.
Gross.	Roll.
Number.	Round.
Pack.	Set.
Pair.	Square.

This part of the amendment shall become effective as of August 30, 1951.

3. Section 373.24 *Statement of past participation in exports for certain commodities* is amended by adding thereto two new paragraphs, (c) and (d), to read as follows:

(c) *DDT (dichlorodiphenyl trichloroethane), including preparations thereof containing 25 percent or more DDT 100 percent basis, Schedule B No. 820580.* Any applicant who has pending with the Office of International Trade or who intends to file applications for a license to export DDT (dichlorodiphenyl trichloroethane), including preparations thereof containing 25 percent or more DDT 100 percent basis, Schedule B No. 820580, must submit on or before September 10, 1951, the following information:

(1) On separate Forms IT–821, total exports from the United States by quantity (shown in the technical (100%) DDT equivalent) and value made in his own name during each of the calendar years 1949 and 1950 of DDT (dichlorodiphenyl trichloroethane), including preparations thereof containing 25 percent or more DDT 100 percent basis, Schedule B No. 820580, to all foreign countries other than Canada.

(2) The names of all DDT exporters, dealers, manufacturers, and any other business organizations (whether individuals, corporations, partnerships, associations or any other kind of organizations) engaged in the same business activity which are directly or indirectly owned or controlled by the applicant or which directly or indirectly own or control the applicant's operations; the date (month and year) when such firms or organizations were established, and their relationships to the applicant's operations.

(3) An applicant need not submit information required on Form IT–821 where his total exports of the commodity covered by this paragraph were less than $250 for any one year.

NOTE: In the absence of any report on Form IT–821, OIT will assume that the applicant's total exports for the commodity were less than $250 in each of the two calendar years, and his application will be considered against a portion of the export quota held for exporters in this category.

(d) *BHC (benzene hexachloride) and formulations thereof containing 1 percent or more of the gamma form, Schedule B No. 820590.* Any applicant who has pending with the Office of International Trade or who intends to file applications for a license to export BHC (benzene hexachloride) and formulations thereof containing 1 percent or more of the gamma form, Schedule B No. 820590, must submit on or before September 10, 1951, the following information:

(1) On separate Forms IT–821, total exports from the United States by quantity (listed according to the percentage strength (gamma isomer equivalent)), and value, made in his own name during each of the calendar years 1949 and 1950 of BHC (benzene hexachloride) and formulations thereof containing 1 percent or more of the gamma, Schedule B No. 820590, to all foreign countries other than Canada.

(2) The names of all BHC exporters, dealers, manufacturers, and any other business organization (whether individuals, corporations, partnerships, associations or any other kind of organizations) engaged in the same business activity which are directly or indirectly owned or controlled by the applicant or which directly or indirectly own or control the applicant's operations; the date (month and year) when such firms or organizations were established, and their relationships to the applicant's operations.

(3) An applicant need not submit information required on Form IT–821 where his total exports of the commodity covered by this paragraph were less than $250 for any one year.

NOTE: In the absence of any report on Form IT–821, OIT will assume that the applicant's total exports for the commodity were less than $250 in each of the two calendar years, and his application will be considered against a portion of the export quota held for exporters in this category.

This part of the amendment shall become effective as of September 10, 1951.

4. Section 380.2 *Amendments or alterations of licenses* is amended in the following particulars:

Paragraph (d) *Disclosure on amendment application of prior detention of commodities by Customs* is amended to read as follows:

(d) *Disclosure on amendment requests of prior action on the shipment.*—(1) *Prior detention of commodities by customs.* Any exporter or his agent making application to the Office of International Trade for an amendment of an export license, who shall know or have reasonable cause to believe that a collector of customs has detained commodities which would be exportable under such license, as amended, shall disclose to the Office of International Trade at the time of applying for such amendment the fact that the collector of customs has detained the commodities. Any amendment obtained without full disclosure of that fact shall be deemed to have been obtained without disclosure of all facts material to the granting of the amendment, and the license and any amendment so obtained shall be void.

(2) *Prior exportation without a license.* No request for amendment to an export license shall be submitted to the Office of International Trade covering a shipment that is already laden aboard the exporting carrier or exported. In such cases where the shipment should have been authorized by a validated license, or amendment thereto, the exporter should send a letter or wire to the Exporters' Service Section, Office of International Trade, Department of Commerce, Washington 25, D. C., Attn: IT–1230, explaining why a validated license (or amendment thereto) was not obtained and disclosing all the facts concerning the shipment that would normally have been disclosed on the Request for and Notice of Amendment Action, Form IT–763. The Office of International Trade will inform the exporter of its action and instructions to him in the matter by letter. Any amendment obtained without such disclosure of all facts material to the granting of the

amendment, and the license and any amendment so obtained shall be void.

NOTE: See § 372.8 and § 380.4 (d) with respect to license applications and requests for extensions of validity periods of licenses to authorize shipments described in paragraph (d) of this section.

This part of the amendment shall become effective as of August 30, 1951.

5. Section 380.4 *Extension of licenses* is amended by adding thereto a new paragraph, (d), to read as follows:

(d) *Disclosure of prior action on the shipment.* The provisions of § 380.2 (d) with respect to disclosure of prior action on the shipment in the case of requests for amendments to licenses shall apply equally to requests for extensions of validity periods of licenses.

This part of the amendment shall become effective as of August 30, 1951.

6. Part 398 *Priority ratings and supply assistance assigned by OIT* is amended by adding thereto a new section (§ 398.7) to read as follows:

§ 398.7 *Supply assistance for foreign mining operations: MRO and capital additions*—(a) *Authority.* Pursuant to National Production Authority's Order M–78, the Office of International Trade, Department of Commerce, is authorized to assist producers of metals and minerals whose mines (1) have received serial numbers under DMA Order MO–7, and (2) are located in a foreign country other than those listed in § 398.1 (c), by assigning allotment numbers and priority ratings to permit the procurement of needed materials in quantities greater than the established quotas for MRO purposes and for capital additions.

(b) *Scope.* Supply assistance is available pursuant to this section and as authorized by NPA Order M–78 to meet the requirements of foreign serialized mines for the following commodities and purposes:

(1) Maintenance, repair and operating supplies, as defined in section 2 (b), (c), and (d) of the Order M–78;

(2) Minor capital additions not in excess of $2,000, as set out in section 2 (e) of the Order M–78;

(3) Major capital additions (costing over $2,000) as defined in section 2 (i) and section 15 of NPA Order M–78 for which application may be made to secure limited supply assistance as set forth in paragraph (f) of this section.

Under the terms of the order, the allotment symbol W–2 may be used to obtain controlled materials, and the rating DO–W–2 for materials other than controlled materials required by foreign serialized mines. However, the allotment symbol and rating may not be applied to obtain any of the materials listed in Schedule I of CMP Regulation No. 5 as it may be amended from time to time (except those products listed as items 1 and 10 of Schedule I) or in List A of NPA Regulation No. 2. (Refer to § 398.3 for complete listing of such excluded items.)

In addition, the allotment symbol and rating may not be applied by a producer to obtain, in any quarter (calendar or fiscal), materials for minor capital additions exceeding, in the aggregate, 10 percent of his quarterly MRO quota, or $2,000, whichever is greater.

In his use of the allotment symbol to procure rails and in his use of the rating to procure track accessories and chemicals, the producer is limited to an amount not to exceed the ratio of consumption by weight to his production by weight for the average of the three years 1948 through 1950.

(c) *Who may apply.* "Foreign producers" whose mines have been assigned serial numbers under § 398.2 and are located in: (1) Countries other than Canada and (2) other than countries for which the Economic Cooperation Administration acts as claimant agency, must submit requests for supply assistance under this section to the Office of International Trade, Washington 25, D. C. A "foreign producer" is defined in NPA Order M–78 as any person actually engaged, outside the United States, its territories and possessions in the activities mentioned in paragraph (h) of section 2 of Order M–78, who is under the jurisdiction of the United States and who has been assigned a serial number pursuant to the provisions of § 398.2. Foreign producers not subject to the jurisdiction of the United States may file through an authorized agent under U. S. jurisdiction.

NOTE: Producers whose mines are located in countries for which the Economic Cooperation Administration is claimant agency shall file requests for supply assistance described in this section with the Economic Cooperation Administration, Washington, D. C., in accordance with instructions issued by that agency. (For a list of such countries, refer to § 398.1 (c).)

Producers located in Canada should consult with the Canadian Division of the National Production Authority, Department of Commerce, Washington 25, D. C.

(d) *Establishment of quarterly quotas to cover MRO and minor capital additions and required report to OIT.* (1) Any foreign producer, as defined in Order M–78, may, without the necessity of filing any applications, establish his quarterly MRO quota amounting to 120% of the dollar value of all MRO expenditures made by him in the United States in the calendar year 1950 (or at his election, his last fiscal year ending prior to March 1, 1951, if he operated on a fiscal year basis prior to that date). He must exclude from his calculation materials listed in List A of NPA Reg. 2 and capital additions. Section 7 (e) of Order M–78 describes the manner in which a seasonal quota may be established by a producer if he so elects.

(2) However, any producer who establishes a quarterly MRO quota in excess of $10,000 must, within 30 days after he first applies the relevant allotment symbol or the rating under the quota, as permitted by Order M–78, notify the Office of International Trade in writing of the quota he has established, the base period he has used, the method he used in computing his quota, and the corrections he made for seasonal or other factors. Such notification shall be filed in quadruplicate on DMA Form MF–400.[1]

[1] Filed as part of the original document.

(3) Section 8 of Order M–78 explains how charges are made by the producer against his quota.

(e) *Submission of requests for increased quotas to cover MRO supplies and minor capital additions.* (1) In cases where a foreign producer's essential needs for MRO supplies and minor capital additions cannot be met within his established quarterly quota described in paragraph (d) of this section, for the reason that production in his mines has increased, he may file application in quadruplicate on DMA Form MF–400, with the Office of International Trade, Washington, D. C., requesting the necessary increase in his quota to cover the third and fourth quarters of 1951. In such cases, producers shall set forth in an accompanying letter (also in quadruplicate) all pertinent facts and justification to support the request for increase.

(2) Where such requests for increases are approved, the OIT will return one authenticated copy of the Form MF–400, on which the producer will be assigned the right to use the allotment number and to apply the priority rating to the full extent of the increased quota.

(3) When a foreign producer's quarterly quota is thus increased by action of OIT, he may continue to operate with the increased quota as his established quota unless the increase is granted on a temporary or seasonal basis or is otherwise restricted by the terms of the authorization. Any increase granted by OIT shall not be retroactive.

(f) *Requests for supply assistance in obtaining materials for major capital additions (costing over $2,000).* Requests of foreign producers for supply assistance in obtaining major capital additions may be filed from time to time with the Office of International Trade, Washington 25, D. C., but for the present these requests must be limited to requests for assistance in obtaining Class B Products listed in NPA's Official CMP Class B Product List consisting of machinery and equipment comprising major capital additions. Application shall be made by letter in triplicate giving the following information:

(1) Serial number assigned pursuant to § 398.2;

(2) Description of machinery and equipment required;

(3) Manufacturer or supplier; model, purchase order number (if any); required delivery date; and approximate dollar value;

(4) Need for machinery or equipment and expected results.

Applications for assistance on Class B Products for major capital additions which the Office of International Trade feels should be recommended will be referred to the Defense Minerals Administration and/or the National Production Authority for their consideration and action.

(g) *Application for CMP Class A Products.* In the event any CMP Class A Products are included in the foreign producer's request, he should attach to his application four copies of the relevant CMP Form 4–A, signed by the

manufacturer, for each Class A Product required.

Definition of Class A Product and method of filing Form 4–A are described in § 398.5.

(h) *Assignment and use of allotment symbols and DO ratings.* (1) Upon establishing his quarterly quota as described in paragraph (d) of this section, a foreign producer automatically—without filing any request—has the right, under the terms of Order M–78, and within the quota as established, to use the allotment symbol W–2 to procure controlled materials and to apply the priority rating DO–W–2 to procure other than controlled materials intended for use as MRO or for minor capital additions, for export to countries for which OIT is claimant agency (OIT is claimant agency for all foreign countries other than Canada and those countries for which ECA is claimant agency.) This right is subject, however, to the limitations set out in paragraph (b) of this section and in sections 6 and 11 of Order M–78.

(2) To the extent increased quotas for MRO and minor capital additions are approved on the Form MF–400, the Office of International Trade will specifically assign to the applicant the right to use the allotment symbol W–2 to obtain controlled materials, and the right to apply the rating DO–W–2 to obtain materials other than controlled materials, subject to the limitations set out in paragraph (b) of this section. Instructions as to the manner in which the producer places his delivery order, and the certification which he must make are contained in sections 3, 4 and 14 of NPA Order M–78.

(3) The method for using the allotment number and for applying the priority rating together with the required certification is described in section 14 of Order M–78.

(i) *Relation to other NPA orders.* Rated orders filled by a manufacturer under this regulation, for MRO supplies as defined in NPA Order M–79, are chargeable to his quarterly MRO export quota established in Order M–79, if M–79 applies to him.

This part of the amendment shall become effective as of August 30, 1951.

(Sec. 3, 63 Stat. 7; 5 U. S. C. App. Sup. 2023, E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F. R. 59; 3 CFR, 1948 Supp.)

LORING K. MACY,
Acting Director,
Office of International Trade.

[F. R. Doc. 51–10940; Filed, Sept. 11, 1951; 8:47 a. m.]

TITLE 45—PUBLIC WELFARE

Chapter IV—Office of Vocational Rehabilitation, Federal Security Agency

PART 401—PLANS AND PROGRAMS OF VOCATIONAL REHABILITATION

PURCHASE OF HOSPITAL CARE

Pursuant to the authority conferred by the Vocational Rehabilitation Act Amendments of 1943, Public Law 113, 78th Congress, 1st session, approved July 6, 1943, § 401.33 of the regulations as published on August 12, 1949 (14 F. R. 4984) is hereby amended by redesignating paragraphs (a) and (b) as paragraph (a) thereof, and by adding a new paragraph (b) so that such section, as hereby amended, will read as follows:

§ 401.33 *Maximum fees for hospitalization.* (a) The State plan shall provide that payments for hospital care will not be in excess of the inclusive per diem cost as defined in § 401.1 (h). The State plan shall indicate the basis on which the State agency will determine the reasonable cost of such items as blood donors, X-rays, anesthesia, appliances, casts, drugs, and supplies, not purchased or provided by the hospital, and for which the hospital has made no expenditures during the accounting period, and, therefore, are not covered by the inclusive per diem cost.

(b) In the case of any hospital or hospitals from which hospital care under the inclusive per diem cost method as defined in § 401.1 (h) is not procurable, the State plan may provide that the maximum fees with respect to such hospital or hospitals shall (as an alternative to the maximum set forth in paragraph (a) of this section) not exceed those paid by other public agencies in the State: *Provided,* That the State agency will maintain such information as is necessary to ascertain the maximum rates applicable under this paragraph.

(Sec. 7, 57 Stat. 374; 29 U. S. C. 37)

Dated: September 7, 1951.

[SEAL] JOHN L. THURSTON,
Acting Federal
Security Administrator.

[F. R. Doc. 51–10962; Filed, Sept. 11, 1951; 8:49 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 22, Amdt. 25]

CPR 22—MANUFACTURERS' GENERAL CEILING PRICE REGULATION

CERTAIN FOOD PRODUCTS, FEEDS AND FEED INGREDIENTS MILLED OR PROCESSED FROM LISTED GRAINS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 25 to Ceiling Price Regulation 22 is hereby issued.

STATEMENT OF CONSIDERATIONS

Certain human food products, feeds and feed ingredients processed from listed grains are exempted from the operation of Ceiling Price Regulation 22 pursuant to (c) (8) of Appendix A thereof. These products were exempted from Ceiling Price Regulation 22 because they were covered or were eventually intended to be covered by Supplementary Regulation 18 to the General Ceiling Price Regulation. Supplementary Regulation 18 has been revised since the issuance of Ceiling Price Regulation 22. Accordingly, (c) (8) of Appendix A is amended to reflect the changes incorporated in that revision.

Supplementary Regulation 18 governs sales by grain millers or processors of the products listed in (c) (8) of Appendix A. These grain millers or processors are persons who take unprocessed grain (that is, grain in its raw or natural state, or in a form in which it is customarily sold by farmers, generally, or in a form in which it is customarily sold by grain merchandisers who do not change the form of such grain other than by having it cleaned, sorted and graded) and mill or process such grain into one of the products listed in (c) (8) as now amended. Persons who may manufacture or otherwise process any of the commodities listed in (c) (8), as amended, but who buy already milled or processed grain for this purpose are not subject to Supplementary Regulation 18. For example, a processor of enriched farina (as defined by the Federal Security Agency) who buys from others the farina (as also defined by the Federal Security Agency) which enters into his enriched farina is not subject to Supplementary Regulation 18. On the other hand, a seller of enriched farina who mills unprocessed wheat into farina and then enriches it is subject to Supplementary Regulation 18.

In order to make clear the distinctions set forth above, (c) (8) of Appendix A has been amended to specify that only sales by grain millers or processors (as defined above, and in Supplementary Regulation 18) of the products enumerated are exempt from the operation of Ceiling Price Regulation 22.

Whether a particular seller of any product enumerated, other than grain millers or processors, is subject to Ceiling Price Regulation 22, will, of course, depend upon whether the changes he performs on the already milled or processed grain require him to be classified as a manufacturer under section 47 of Ceiling Price Regulation 22. The seller's status may also, of course, depend upon other regulations, now or hereafter issued, which are applicable to him and to his product.

Certain changes have also been made in Supplementary Regulation 18 with respect to those products which, when sold by grain millers or processors, are covered by the regulation. The human food products are now specifically listed. The revised regulation also makes it clear that the feeds or feed ingredients covered must be milled or processed from a single one of the unprocessed grains described, and, in addition, it covers certain animal or poultry feed by-products of the distilling and brewing industries. This amendment reflects those changes.

Before this amendment, paragraph (c) (8) contained a carton limitation the effect of which was to require pricing of the products enumerated under Ceiling Price Regulation 22 when they were sold in cartons of 5 pounds or less. In order to conform paragraph (c) (8) to Sup-

plementary Regulation 18, as revised, this carton provision has been eliminated except in the case of cake flour. As amended, paragraph (c) (8) provides that the exemption of the enumerated products from Ceiling Price Regulation 22, when sold by grain millers or processors, applies to such products in bulk and in all sizes of packages, cartons or other containers. Grain millers or processors, however, must establish ceiling prices for their cake flour in packages of 5 pounds or less under Ceiling Price Regulation 22.

At the present time, the effective date of CPR 22, the final date for filing Form 8's and for putting prices in effect under it, has been postponed indefinitely. The effect of this indefinite postponement is to give an option in pricing to those persons who, as a result of the revision of Supplementary Regulation 18 and of this amendment, are no longer covered, as to some of their products, by Supplementary Regulation 18 and who would be subject to Ceiling Price Regulation 22 except for its indefinite postponement date. Until an effective date for Ceiling Price Regulation 22 is announced and a final date set for filing under it, such persons have the option of establishing ceiling prices for such products under the General Ceiling Price Regulation or of filing and establishing ceiling prices for them under Ceiling Price Regulation 22 pursuant to the directions of the latter regulation.

AMENDATORY PROVISIONS

Subparagraph (8) of paragraph (c) of Appendix A of Ceiling Price Regulation 22 is changed to read as follows:

(8) Sales by grain millers or processors, as defined in Supplementary Regulation 18, of the following human food products and feeds or feed ingredients:

(i) These human food products: Flour, as defined in Supplementary Regulation 18 (except cake flour in packages of 5 pounds or less, and prepared flour mixes), semolina (as defined by the Federal Security Agency), farina (as defined by the Federal Security Agency), enriched farina (as defined by the Federal Security Agency), corn meal, corn grits, hominy grits, brewers' grits, pearl barley, malt and other processed barleys.

(ii) Animal or poultry feeds when milled or processed from a single one of the following grains: Wheat, corn, flaxseed, oats, rye, barley and grain sorghums; and the following feed or feed ingredient by-products: distillers' dried products, distillers' dried grains, distillers' solubles, distillers' dried grains with solubles, distillers' specialty products, brewers' dried grains, malt dried grain, malt cleanings, malt hulls and malt sprouts.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment 25 to Ceiling Price Regulation 22 shall become effective September 15, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

SEPTEMBER 10, 1951.

[F. R. Doc. 51-11017; Filed, Sept. 10, 1951; 4:06 p .m.]

[General Ceiling Price Regulation, Supplementary Reg. 18, Revision 1]

GCPR, SR 18, REV. 1—CEILING PRICES FOR SALES BY GRAIN MILLERS OR PROCESSORS OF CERTAIN FOOD COMMODITIES, FEEDS AND FEED INGREDIENTS PROCESSED FROM LISTED GRAINS

Pursuant to the Defense Production Act of 1950, as amended by the Defense Production Act Amendments of 1951 (Pub. Law 774, 81st Cong.; Pub. Law 96, 82d Cong.), Executive Order 10161 (15 F. R. 6105) and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 18, Revision 1 to the General Ceiling Price Regulation (16 F. R. 808) is hereby issued.

STATEMENT OF CONSIDERATIONS

This revision provides for the following changes in Supplementary Regulation 18: It (1) extends the coverage of the regulation to include certain products milled or processed from barley; (2) adds to the products covered by the regulation certain feeds and feed ingredients which are byproducts of the alcohol, distilled liquor and brewing industries; (3) enumerates the human food products and food ingredients and clarifies the kinds of feed and feed ingredients covered by the regulation; (4) exempts from the regulation prepared flour mixes, in bulk or in packages, and cake flour when sold in certain sized packages; (5) makes clear the persons who are covered by the regulation, and, more particularly, makes it plain that only those persons are covered who take unprocessed grain and mill or process such grain into the grain products described in the regulation; (6) clarifies the method of computing "parity" adjustments in ceiling prices of commodities covered by the regulation and conforms it to the "parity" adjustment provisions of the GCPR, as amended; (7) changes the title of the regulation so that it now generally describes the persons and products covered; (8) adds provisions dealing with container differentials and packaging and handling charges; and (9) makes certain minor changes in the structure and phraseology of the regulation. Because these changes are so extensive, a revision of SR 18, rather than an amendment, is deemed the appropriate method of modification.

Products milled or processed from barley. Barley was omitted from the list of grains with which SR 18 originally dealt, yet millers or processors of flour, of certain other food products, and of feeds and feed ingredients, all made from barley, customarily sell such commodities on a forward delivery basis, with delivery provided for within 120 days after date of the contract. The deliveries that such millers or processors made during the General Ceiling Price Regulation base period, and, consequently, their present ceiling prices are predicated upon the cost to them of barley during the autumn months of 1950 rather than upon the substantially higher cost to them of the grain during the base period. Millers or processors of other grains, on the other hand, who similarly sell on a forward delivery basis, can, under Supplementary Regulation 18, reflect base period grain costs. In order that millers or processors of barley may likewise reflect such costs, SR 18 is revised to include them.

Feed by-products of the alcohol or distilling and brewing industries. According to the information available at this time, certain feeds or feed ingredients which are by-products of the alcohol or distilled liquor and the brewing industries are customarily sold on a forward delivery basis. The same considerations which led to granting the relief provided by SR 18 apply to the persons who process these by-products from unprocessed grain. Moreover, these by-products are competitive with those feeds or feed ingredients already covered by SR 18. To a substantial extent, the prices for these by-products tend to be related to the prevailing forward delivery prices of these other feeds. It is important, therefore, that these by-products be priced in a manner which reflects this competitive relationship. For these reasons this revision adds to the products covered by the regulation the following feed or feed ingredient by-products of these industries: distillers' dried products, distillers' dried grains, distillers' solubles, distillers' dried grains with solubles, distillers' specialty products, brewers' dried grain, malt dried grain, malt cleanings, malt hulls and malt sprouts.

Clarification of the food products and feeds or feed ingredients covered. Although SR 18 was intended to cover both certain human food products and commodities used for feeding livestock or poultry, inquiries concerning the meaning of the term "meal" have indicated that the term is too indefinite to reflect this intention adequately. Furthermore, as applied to human food products, the use of "meal" has created difficulties in determining which of such products are covered by SR 18 and which are not. This revised supplementary regulation attempts to correct these difficulties by eliminating the term "meal" as a general descriptive term from the regulation. A milled or processed commodity which is used for animal or poultry consumption is simply referred to by the applicable terms well understood in the grain milling or processing trade, namely, "feed" or "feed ingredients". The food products which are covered by SR 18 are now listed in section 2 of the regulation. The prices of some of these food products, when sold in small size packages, may have customarily been set at a relatively large margin above the cost of unprocessed grain. In that event, the processor might not be "squeezed", even if he could not reflect his base period grain costs in his base period prices insofar as those products in small packages are concerned, and, logically, he should not be permitted to take advantage of the special pricing method provided by SR 18. It has been decided, however, in order to establish a uniform method for pricing within the industry, that grain millers or proc-

essors be permitted to price the listed food products, in bulk and in all sizes of containers and packages, under this one regulation.

For the purpose of further clarifying the food products subject to the regulation, a definition of "flour" has been added. Prepared flour mixes in all sizes of packages and cake flour in packages of five pounds or less have been excluded from the definition of flour and from coverage under this regulation. The prices for mixes and for cake flour, when so packaged, do not tend to fluctuate in sensitive reaction to changes in the price of the grain from which they are milled or processed, and the prices for them tend to be set at a relatively high margin above grain costs. It is apparent, therefore, that processors of these products do not require the price relief which SR 18 provides.

Insofar as feeds are concerned, this revision further clarifies the animal or poultry feeds or feed ingredients covered by providing that these products, except in the case of certain distillers' or brewers' by-products, must be milled or processed from a single one of the grains enumerated in section 2.

Clarification of the persons covered. This revision also makes it clear that the regulation only covers persons who take unprocessed grain and then mill or process such grain into products subject to the regulation. The unprocessed grain referred to must be grain (1) in its raw or natural state or in a form in which it is customarily sold by farm producers, or (2) in the form in which it is customarily sold by grain merchandisers who do not substantially change the form of the grain, as sold by the farm producers, other than by having it cleaned, sorted and graded.

Under the GCPR, these millers or processors of unprocessed grain were the only ones who, with respect to grain costs, were generally "squeezed" in a manner which justified the method of price relief that SR 18 provides. These millers or processors had their GCPR ceiling prices established on the basis of pre-base period grain costs, but were required to compute their initial "parity" adjustments on the basis of base period grain costs. The GCPR provided no method by which the increase in base period unprocessed grain costs over pre-base period grain costs could be reflected in ceiling prices. Generally, persons who are not at the first milling or processing level receive all the relief they are entitled to, insofar as GCPR base period costs of unprocessed grain may indirectly affect them, under the "parity pass-through" provisions of the GCPR or CPR 22, and there is no substantial justification for including them under SR 18.

Applying this clarified standard as to what persons are included under SR 18 removes doubts concerning the persons who are to determine their ceiling prices for a particular product under SR 18 and those persons who are not. For instance, enriched farina (as defined by the Federal Security Agency) is a product enumerated in SR 18. However, only those persons who take unprocessed wheat and convert such wheat into enriched farina are subject to SR 18. Those persons, on the other hand, who buy farina (as defined by the Federal Security Agency) and convert it into enriched farina are to price the enriched farina under the GCPR, CPR 22, or such other regulation as may thereafter be applicable to them.[1] Those manufacturers of enriched farina who are subject to the GCPR or CPR 22 may, of course, eventually adjust their ceiling prices for the product to reflect the increase in prices of farina at the milling level which results from the operation of SR 18. This they may do pursuant to the "parity pass-through" provisions of these regulations.

A further clarification has been made concerning the terms used in describing the persons covered by the regulation. Previously, the persons covered were described as those who "mill and process" the enumerated products. The use of the word "and" suggests that the grain must be "milled", and, in addition, "processed" before a person could price under SR 18. This, of course, is not the intention of the regulation. "Milling" is intended to mean a method of converting unprocessed grain into one of the products under the regulation which is technically and popularly referred to in the trade as a "milling" operation. The word "process", as defined, is used for the purpose of covering: (1) Those situations in which a person changes and incorporates his unprocessed grain into one of these products by "milling", and, in addition, by other operations which are not technically or popularly referred to as milling; or (2) those situations in which none of the steps by which a person converts his unprocessed grain into one of the products covered is technically or popularly referred to as a milling operation. In order to make clear the intention in using these terms, persons subject to the regulation are now referred to as persons who "mill or process" one of the products covered by the regulation.

Calculating and reporting "parity" adjustments. Furthermore, this revision clarifies direction with respect to computing "parity" adjustments under section 11 of the GCPR. Section 4 of this revision now makes it clear that in calculating and reporting his initial "parity" adjustment, the grain miller or processor shall use as the base period price to him of the class and grade of unprocessed grain from which his product is processed the price paid by him for the customary purchase of such grain which he made on the date of execution of the forward delivery contract establishing the ceiling price for his product. If the grain miller or processor did not make a customary purchase on that date, he is to use as the base period price to him of such grain the price paid by him for the most recent customary purchase which he made before such date. The grain miller's or processor's initial "parity" adjustment, under this revision, is the dollars-and-cents amount per unit of his product by which his most recent customary purchase of the same class and grade of unprocessed grain exceeds this base period price to him.

A special provision has been added which permits a grain miller or processor to calculate his initial "parity" adjustment on the basis of commodity exchange quotations for the class and grade of unprocessed grain used in his product rather than on the basis of the price or cost of customary purchases of such grain. In order to use this method of calculating the "parity" adjustment, the grain miller or processor must satisfy the conditions set forth in paragraph (a) (2) of section 4. One of these conditions, for example, is that it be both the practice of the particular grain miller or processor and the general practice of his industry to determine selling prices for the product on the basis of commodity exchange quotations for the unprocessed grain used.

The "parity" adjustment provision emphasizes the fact that only the initial "parity" adjustment is to be made under this revised supplementary regulation. Any subsequent "parity" adjustment is to be calculated and reported under section 11 (b) or 11 (e) of the GCPR, whichever provision is applicable to the particular grain miller or processor.

No feasible method of calculating can be established for certain grain millers or processors who cannot calculate their initial "parity" adjustment under the provisions set forth in this regulation. They are those grain millers or processors who grow their own unprocessed grain; those grain millers or processors who purchase their unprocessed grain on "open" price contracts; and those cooperative grain millers or processors who are owned by the farm producers who supply the unprocessed grain used in the milled or processed products, each of whom cannot determine their intial "parity" adjustment under this regulation for reasons more particularly set forth in section 4 (b). Section 4 (b) exempts such grain millers or processors from the initial "parity" adjustment provision of this regulation, and provides that they are to calculate and report this initial "parity" adjustment and any subsequent adjustment under the applicable provisions of section 11 of the GCPR.

Special directions are provided for those millers or processors who mill or process their unprocessed grain into any number of co-products or by-products. In calculating their intial "parity" adjustment, such persons are to allocate the increase in price, cost or commodity exchange quotation of unprocessed grain per unit of each co-product or by-product in the same manner as they customarily allocated the cost of the unprocessed grain to each such product.

[1] Amendment 25 to CPR 22, issued simultaneously with this revision of Supplementary Regulation 18, amends paragraph (c) (8) of Appendix A of CPR 22 to reflect the changes contained in this revision.

Container differentials and packaging and handling charges. Provisions have been added to this regulation to facilitate the pricing of those products that are sold in various kinds and sizes of containers. These provisions are set forth in paragraph (b) of section 3 of the regulation. They are all based upon the principle of permitting the grain miller or processor to establish the ceiling price for his product in bulk or in a base kind and size of container on a highest forward delivery contract basis, and then to apply dollars-and-cents differentials in order to arrive at ceiling prices for the product in different kinds and sizes of containers. Subparagraph (1) of section 3 (b) establishes a method of calculating ceiling prices for any product covered by this regulation by applying GCPR base period price differentials. Subparagraph (2) provides a method for calculating ceiling prices for human food products and ingredients on the basis of price lists or catalogues in effect during the base period. Subparagraph (3) sets forth the method by which the grain miller processor can calculate his ceiling prices to reflect his packaging and handling charges when private brand or other containers are supplied by the the buyer.

In the judgment of the Director of Price Stabilization, the provisions of Supplementary Regulation 18 to the General Ceiling Price Regulation, as revised hereby, are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

In formulating this revision to SR 18, representatives of the industries affected have been consulted to the extent practicable under the circumstances and consideration was given to their recommendations.

REGULATORY PROVISIONS

Sec.
1. What this regulation does.
2. Applicability.
3. Determination of ceiling prices.
4. Calculating and reporting the first or initial "parity" adjustment and subsequent "parity" adjustments.
5. Definitions.

AUTHORITY: Sections 1 to 5 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110. E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this regulation does.* This supplementary regulation sets forth a method by which persons who mill or process unprocessed grain are to establish their ceiling prices for sales by them of certain human food products and animal or poultry feeds or feed ingredients. Section 2 of this regulation, among other things, describes what persons and what products are covered by the regulation. Section 3 sets forth the method by which persons covered by the regulation are to establish their ceiling prices for sales of products enumerated in section 2. Section 4 describes the method by which such persons are to calculate and report their first or initial "parity" adjustment for a product pursuant to section 11 of the General Ceiling Price Regulation. Section 5 sets forth certain definitions relating to the persons and products subject to the regulation and the method for determining ceiling prices.

SEC. 2. *Applicability*—(a) *What sales by what persons are covered.* This regulation applies to sales by you of any human food product, or animal or poultry feed or feed ingredient described in paragraph (b) of this section if you take unprocessed grain and mill or process such grain into that human food product or feed or feed ingredient. The terms "unprocessed grain", "mill" and "process" are defined in section 5 of this regulation.

(b) *What products are covered.* This regulation applies to sales by you of the following products.

(1) These human food products, ingredients in human food products and ingredients in wort for beer or for syrup: Flour (except cake flour in packages of five pounds or less, and prepared flour mixes in bulk and in all package sizes), semolina, farina, enriched farina, corn meal, corn grits, hominy grits, brewers' grits, pearl barley, malt and other processed barleys. (If you mill or process flour, semolina, or farina, be sure to check section 5 for definitions of these products.)

(2) The following animal or poultry feeds or feed ingredient products: (i) Animal or poultry feeds or feed ingredients when milled or processed from a single one of the following grains: wheat, corn, flaxseed, oats, rye, barley and grain sorghums; (ii) distillers' dried products, distillers' dried grains, distillers' solubles, distillers' dried grains with solubles, distillers' specialty products, brewers' dried grain, malt dried grain, malt cleanings, malt hulls and malt sprouts. (Definitions of these feed by-products of the distilling and brewing industries are set forth in section 5 of this regulation.)

(c) *Relation of this regulation to other ceiling price regulations.* (1) All provisions of the General Ceiling Price Regulation not inconsistent with the provisions of this supplementary regulation shall remain in effect.

(2) The provisions of Supplementary Regulation 7 to the General Ceiling Price Regulation are not superseded by the provisions of this regulation.

(d) *Territorial applicability.* The provisions of this regulation are applicable to the United States, its Territories and possessions, and the District of Columbia.

SEC. 3. *Determination of ceiling prices.*—(a) *General provisions.* If you mill or process unprocessed grain into a product covered by section 2 of this regulation, your ceiling price for that product shall be: (1) The highest price at which you contracted in writing during the General Ceiling Price Regulation base period to sell the product for delivery within 120 days after the date of the contract, or (2) if you made no such contract during the base period, then the highest price at which, during the base period, your most closely competitive seller contracted in writing to sell the product for delivery within 120 days after the date of the contract to a purchaser of the same class.

(b) *Ceiling prices for a product in various kinds and sizes of containers.* (1) You may determine your ceiling prices for any product in each of the various kinds and sizes of containers in which you sell it by: (i) Establishing your ceiling price under paragraph (a) of this section for your product in bulk or in the kind and size of container in which the largest quantity of your product is sold, and by then (ii) adding to or subtracting from such ceiling price an average dollars-and-cents difference during the General Ceiling Price Regulation base period between the prices of your product in bulk or in the kind and size of container in which the greatest quantity of your product is sold (whichever prices are applicable) and the prices for a like quantity of your product in such other kind or size of container.

Example: Your family flour in 100-pound cotton sacks accounts for the largest part of your sales by volume of this product. Your ceiling price for family flour per 100-pound cotton sack, upon application of section 3 (a) of this regulation, is $7.50. During the General Ceiling Price Regulation base period, your prices for 100 pounds of family flour in 50-pound paper sacks averaged out to be 5 cents per hundredweight higher than your prices per 100-pound cotton sack. Accordingly, your ceiling price for 100 pounds of family flour in 50-pound paper sacks is $7.55.

(2) You may establish your ceiling prices for a product under this subparagraph for a particular product in each of the various kinds and sizes of containers furnished by you (as, for example, sacks, packages and cartons) if: (i) The product is one of those enumerated in paragraph (b) (1) of section 2 of this regulation; and (ii) you had in effect during the General Ceiling Price Regulation base period a dollars-and-cents container differential list or catalogue by reference to which the price of your product in bulk or in a base kind and size of container was converted into prices for the product in other kinds and sizes of containers; and (iii) such price list or catalogue was communicated to a substantial number of your customers. If you meet these conditions you may determine your ceiling price for your product in each kind and size of container by: (iv) Establishing the ceiling price for your product in bulk or in its base kind and size of container under paragraph (a) of this section; and by then (v) adding to or subtracting from such ceiling price the appropriate dollars - and - cents differential, contained in that price list or catalogue, for a like quantity of your product in such other kind and size container.

(3) You may establish your ceiling prices under this subparagraph in order to reflect your charges for handling and packaging your product into the kinds and sizes of containers furnished by your buyers if: (i) The product is one of those enumerated in paragraph (b) (1) of section 2 of this regulation, and (ii) you had in effect during the General

Ceiling Price Regulation base period a dollars-and-cents container differential list or catalogue by reference to which the price of your product in bulk or in a base kind and size of container was converted into prices charged by you for the product in kinds and sizes of containers furnished by your buyers; and (iii) such price list or catalogue was communicated to a substantial number of your customers. If you meet these conditions, you may determine your ceiling price for your product in each kind and size of container furnished by your buyers by: (iv) Establishing the ceiling price for your product in bulk or in its base kind and size of container under paragraph (a) of this section, and by then (v) adding to or subtracting from such ceiling price the appropriate dollars-and-cents differential, contained in that price list or catalogue, for a like quantity of your product in such other kind and size of container furnished by your buyer.

Sec. 4. *Calculating and reporting the first or initial "parity" adjustment and subsequent "parity" adjustments*—(a) *Grain millers or processors, generally.* (1) You shall calculate and report your initial "parity" adjustment for increases in the cost or price to you of unprocessed grain under section 11 of the General Ceiling Price Regulation as follows:

(i) Except as provided in subdivision (ii) of this subparagraph, you shall use as the base period price to you of the class and grade of unprocessed grain from which your product is milled or processed the price paid by you for the customary purchase of such grain which you made on the date of execution of the contract establishing the ceiling price for your product under section 3 of this regulation. If you did not make a customary purchase on that date, then you shall use as the base period price to you the price paid by you for that most recent customary purchase which you made before such date. If you select the base period price to you under this subdivision, your initial "parity" adjustment shall be the dollars-and-cents amount per unit of your product by which your most recent customary purchase of the same class and grade of unprocessed grain exceeds this base period price to you; or

(ii) You may (but are not required to) use quotations of a commodity exchange as the base period price to you of the unprocessed grain if: It has been your practice and the general practice of your industry to determine selling prices for the product on the basis of commodity exchange quotations for the unprocessed grain used; the exchange is a recognized commodity exchange that maintains daily records of transactions or quotations; and the price of the class and grade of grain from which your product is milled or processed is quoted on such exchange. In that event, you may use as the base period price to you the closing commodity exchange quotations for the class and grade of unprocessed grain you use on the date of the contract which established the ceiling price for your product under section 3 of this regulation. If such exchange was not open for business on that date, then you shall use as the base period price to you, the closing quotation for such grain on the nearest preceding date on which it was open for business. If you select a commodity exchange quotation as the base period price to you under this subdivision, your initial "parity" adjustment shall be the dollars-and-cents amount per unit of your product by which the current closing quotation of the same commodity exchange for the same class and grade of unprocessed grain exceeds the base period price to you for such grain.

(2) If you mill or process any number of co-products or by-products you shall, in calculating your initial "parity" adjustment for them, allocate the increase in the cost or price of unprocessed grain (as determined under the applicable provisions of subparagraph (1) of this paragraph) per unit of each product in the same manner as you customarily allocated the cost of such unprocessed grain to each such product.

(3) You shall only use this paragraph to calculate and report the initial "parity" adjustment based upon an increase in the price or cost to you of unprocessed grain. Any subsequent "parity" adjustment, with respect to unprocessed grain, shall be made under the second paragraph of section 11 (b) (2) or under section 11 (e), whichever is applicable, of the General Ceiling Price Regulation.

(b) *Grain millers or processors who grow their own unprocessed grain; grain millers who purchase their unprocessed grain on "open" price contracts; cooperative grain millers or processors owned by the farm producers of the unprocessed grain.* You are exempt from the provisions of paragraph (a) of this section dealing with initial "parity" adjustments if:

(1) You are a grain miller or processor who grows his own unprocessed grain, and you (i) cannot determine your initial "parity" adjustment under paragraph (a) (1) (i) of this section, because you do not customarily purchase any amount of the unprocessed grain used in your product from independent farm producers wholly unaffiliated with you; and, in addition, you (ii) are not permitted to calculate your initial "parity" adjustment on the basis of commodity exchange quotations under paragraph (a) (1) (ii) of this section; or

(2) You are a grain miller or processor who purchases his unprocessed grain under "open" price contracts which relate the price paid to the producer of such grain to facts unknown both at the time of delivery to you of such grain and before the time of sale of your product and you (i) cannot determine your initial "parity" adjustment under paragraph (a) (1) (i) of this section because you do not customarily purchase any amount of your unprocessed grain at prices finally determined before the time of sale of your product; and, in addition, you (ii) are not permitted to calculate your initial "parity" adjustment on the basis of commodity exchange quota—under paragraph (a) (1) (ii) of this section; or

(3) You are a cooperative grain miller or processor owned by the farm producers who supply you with your unprocessed grain, and you (i) cannot determine your initial "parity" adjustment under paragraph (a) (1) (i) of this section because you do not customarily purchase any amount of your unprocessed grain from independent farm producers wholly unaffiliated with you; and, in addition, you (ii) are not permitted to calculate your initial "parity" adjustment on the basis of commodity exchange quotations under paragraph (a) (1) (ii) of this section.

In the event that you are exempt from the provisions of this regulation dealing with initial "parity" adjustments, you shall calculate and report your initial "parity" adjustment and any subsequent "parity" adjustment under the applicable provisions of section 11 of the General Ceiling Price Regulation.

Sec. 5. *Definitions—Unprocessed grain.* Unprocessed grain means (1) grain in its raw or natural state, or if the grain is not customarily sold by farm producers generally in such state than in its first form or state beyond the raw or natural state in which it is customarily sold by farm producers generally; or (2) grain, as sold by grain merchandisers who do not change the form or state of the grain, as described in subparagraph (1), other than by having it cleaned, sorted and graded.

Mill. Mill means the conversion of unprocessed grain into one of the products covered by this regulation by an operation regarded in the trade as a milling operation.

Process. Process means any method or methods by which a person subject to this regulation takes unprocessed grain and converts it into one of the products covered by the regulation.

Grain miller or processor. A grain miller or processor means a person who takes unprocessed grain and mills or processes such grain into one of the products covered by this regulation.

Flour. Flour means the following products enumerated below.

(1) The following flour from wheat, in bulk and in packages or containers of all sizes, except cake flour (as defined in this section) in packages of 5 pounds or less:

(i) Any product of the milling of wheat, other than durum wheat, whose ash content is not more than the sum of $\frac{1}{20}$ of the percent of protein therein calculated to a moisture-free basis, and 0.35, including granular flour used in the distillation of alcohol, except that farina shall not be deemed to be flour from wheat; (ii) any product of the milling of durum wheat whose ash content, calculated to a moisture-free basis, is not more than 1.5 percent, except that semolina shall not be deemed to be flour from wheat; (iii) whole wheat flour, crushed wheat and cracked wheat all when used for human consumption; (iv) whole durum wheat flour; (v) blends of the foregoing flours from wheat; (vi) "bleached", "bromated", "enriched", "phosphated" and "self-rising" flours shall be considered flour, and, in determining whether the ash content of such

flour complies with ash requirements as set forth herein, allowances shall be made for the increase in the ash content resulting from the addition of the bleaching, bromating, enriching, phosphating and self-rising ingredients.

(2) Flour milled from one of the following grains: corn, barley, rye, oats.

(3) Flour mixtures consisting of one or more of the kinds of flour set forth in subparagraphs (1) and (2), other than "prepared flour mixes" (as defined in this section).

Cake flour. Cake flour means a soft wheat flour containing not more than .447 percent ash calculated to a moisture-free basis (which equals .38 percent ash calculated to a 15 percent moisture basis) having a viscosity of not more than 70 degrees (Mac-Michael) determined by the no-time method and capable of producing satisfactory cake, when mixed with an equal weight of liquid and an equal weight of sugar together with other appropriate ingredients.

Prepared flour mix. Prepared flour mix means any combination of not less than 30 percent by weight of flour or flours with ingredients other than those used to make the flour. This percentage is based on the total weight of the finished mix. The term includes, but is not limited to, pancake mix, waffle mix, doughnut mix, muffin mix, biscuit mix, pie crust mix, gingerbread mix, coffee cake mix, spice cake mix, devil food cake mix, angel food cake mix, white cake mix, and yellow cake mix.

Farina. Farina means the wheat product of that name conforming to the definition and standard of identity issued by the Federal Security Agency of the United States Government.

Enriched farina. Enriched farina means the wheat product of that name conforming to the definition and standard of identity issued by the Federal Security Agency of the United States Government.

Semolina. Semolina means the durum wheat product of that name conforming to the definition and standard of identity issued by the Federal Security Agency of the United States Government.

Distillers' dried products. Distillers' dried products means the dried residue obtained from the manufacture of alcohol and distilled liquors from any agricultural commodity which residue is used primarily for animal or poultry feeding and which contains less than 12 percent moisture content at the time of production, and includes grains, distillers' solubles and mixtures of the two.

Distillers' dried grains. Distillers' dried grains means the dried residue obtained from the manufacture of alcohol and distilled liquors from any agricultural commodity and which, by chemical analysis, contains 9 percent of fibre or more.

Distillers' solubles. Distillers' solubles means the feed by-product of the manufacture of alcohol and distilled liquors from any agricultural commodity which contains, by chemical analysis, not over 4 percent fibre, and which is obtained by condensing to a syrupy consistency the screened stillage resulting from such manufacture and by then artificially drying this condensed stillage.

Distillers' dried residue with solubles. Distillers' dried residue with solubles means any mixture of distillers' dried residue and distillers' solubles which, by chemical analysis, contains more than 4 percent and less than 9 percent fibre.

Distillers' specialty products. Distillers' specialty products means those distillers' dried products which, because of special factors relating to their sale or method of manufacture, are sold by the processor at higher prices than he customarily charges for his other distillers' dried products.

Brewers' dried grains. Brewers' dried grains are the dried residue of byproducts produced in the manufacture of wort for beer or for syrup.

Malt dried grain, malt cleanings, malt hulls and malt sprouts. Malt dried grain, malt cleanings, malt hulls and malt sprouts are the byproducts from the manufacture of malt.

Effective date: This revised supplementary regulation to the General Ceiling Price Regulation shall become effective September 15, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

SEPTEMBER 10, 1951.

[F. R. Doc. 51-11015; Filed, Sept. 10, 1951; 4:05 p. m.]

[General Ceiling Price Regulation, Supplementary Regulation 59]

GCPR, SR 59—CEILING PRICES FOR MURIATE OF POTASH

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 59 to the General Ceiling Price Regulation is issued.

STATEMENT OF CONSIDERATIONS

This supplementary regulation to the General Ceiling Price Regulation is issued to alleviate certain conditions peculiar to the potash industry which have resulted in hardship to small producers of muriate of potash operating under the General Ceiling Price Regulation.

In the summer of 1950 the prevailing prices for muriate of potash were $0.40 per unit of K_2O, f. o. b. Carlsbad, New Mexico, and $0.48½ f. o. b. Trona, California. During October of 1950 these prices rose two cents per unit to $0.42 and $0.505, respectively. Producers of approximately 97 percent of the domestic muriate of potash were able to deliver sufficient quantities of this product at the higher prices during their General Ceiling Price Regulation base period, so as to allow them to retain the higher price as their ceiling under the General Ceiling Price Regulation. Producers of the remaining three percent, however, could not make sufficient deliveries at the higher price during the base period because of existing contract commitments.

This supplementary regulation alleviates the hardship on the small producers which resulted from the above conditions by allowing any producer to sell at the ceiling prices already applicable to most producers of muriate of potash. It also allows any producer who as yet has not had a ceiling price established under the General Ceiling Price Regulation to sell at the same level. Producers whose ceiling prices under the General Ceiling Price Regulation are higher than the prices set forth in this supplementary regulation are not required to revert to the lower prices.

In the judgment of the Director of Price Stabilization, the provisions of this Supplementary Regulation 59 to the General Ceiling Price Regulation are generally fair and equitable and are necessary to effectuate the purpose of Title IV of the Defense Production Act of 1950, as amended.

Special circumstances have rendered impracticable consultation with formal industry advisory committees or trade association representatives. However, the Director has consulted individual members of the industry and has given consideration to their recommendations.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Ceiling prices on sales of muriate of potash by certain producers.
3. Applicability of the General Ceiling Price Regulation.

AUTHORITY: Sections 1 to 3 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup., 2101-2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This supplementary regulation permits certain producers of muriate of potash, whose sales are subject to the General Ceiling Price Regulation, to increase their present ceiling prices on sales of that commodity. It also establishes ceiilng prices for certain producers who as yet do not have ceiling prices established for that commodity under the General Ceiling Price Regulation. However, if prior to the effective date of this supplementary regulation your established ceiling prices for muriate of potash were higher than those fixed by this supplementary regulation, you may retain the higher ceiling prices and you are not affected by this supplementary regulation.

SEC. 2. *Ceiling prices on sales of muriate of potash by certain producers.* (a) If you produce and sell muriate of potash and your ceiling prices of that commodity under the General Ceiling Price Regulation are lower than the prices specified in paragraph (b) of this section, you may increase your ceiling prices to the prices set forth in paragraph (b). If you produce and sell muriate of potash but do not as yet have ceiling prices for that commodity established under the General Ceiling Price Regulation your ceiling prices under the General Ceiling Price Regulation shall be the prices set forth in paragraph (b) of this section.

(b) The ceiling prices on spot sales of muriate of potash in carload lots by the producers described in paragraph (a) of this section are:

Shipping point:	*Ceiling price per unit of K_2O (f. o. b. plant)*
Carlsbad, N. Mex	$0.42
Wendover, Utah	.42
Trona, Calif	.505

"Unit" means 1 percent of a ton or 20 pounds.

For LCL and contract sales, apply your customary differentials and discounts as required by section 9 of the General Ceiling Price Regulation. You must use the ceiling price which is applicable to the shipping point nearest your producing point.

SEC. 3. *Applicability of the General Ceiling Price Regulation.* Except to the extent modified by this supplementary regulation, all of the provisions of the General Ceiling Price Regulation remain unchanged in their applicability to muriate of potash.

Effective date. This regulation shall become effective on September 15, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

SEPTEMBER 10, 1951.

[F. R. Doc. 51-11016; Filed, Sept. 10, 1951; 4:06 p. m.]

[Ceiling Price Regulation 45, Revision 1]

CPR 45—APPAREL MANUFACTURERS' GENERAL CEILING PRICE REGULATION

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Revision 1 of Ceiling Price Regulation 45 is hereby issued.

ORIGINAL STATEMENT OF CONSIDERATIONS

The need for this regulation. This regulation establishes ceiling prices for sales by manufacturers of apparel, apparel furnishings and apparel accessories.

The general objectives of this regulation are essentially the same as those underlying the Manufacturers' General Ceiling Price Regulation (Ceiling Price Regulation 22): to roll back margins which may have been widened after the Korean outbreak; to restore more normal cost-price relationships by ironing out distortions created by the General Ceiling Price Regulation; and to grant to manufacturers needed relief from the general freeze order. The Statement of Considerations contained in Ceiling Price Regulation 22 is generally applicable to this regulation.

This regulation is designed to prescribe methods of calculation more closely adapted to the cost structures of the apparel industries than is possible under a regulation applicable to manufacturers generally. The need for a special regulation of this type was announced at the time Ceiling Price Regulation 22 was issued.

In the apparel industries there is a far greater percentage of new articles than in most other industries. If the pricing technique of the Manufacturers' General Ceiling Price Regulation were to be applied to the apparel industries, with their predominance of style articles, there would be a far greater percentage of articles priced by comparison with a single article manufactured in the base period. The selection of the particular article would be left to the choice of the manufacturer without effective control by the Office of Price Stabilization. Such practice would enable a manufacturer to select a particular article affording the highest mark-up and result in a distortion of the traditional cost-price relationship of all the articles which he manufactures.

Price control on the comparison basis is somewhat looser in administration, more difficult to enforce effectively, and less appropriate. Consequently, this regulation has been designed to narrow the field in which an article may be priced by comparison with any single article manufactured in the base period.

General nature of the regulation. This regulation takes account of the seasonal aspects of the apparel trades by providing choices of base periods during which seasonal articles were sold or delivered. Apparel manufacturers will be permitted to take, as a base period for any category, any three consecutive calendar months between July 1, 1949 and June 24, 1950. The measuring standard of the calendar quarter has not been adopted for this regulation because the selling seasons of the apparel industries differ widely from section to section of the country and from segment to segment of the industry, and cut across calendar quarters. However, a manufacturer is limited to four base periods for all his categories.

To the highest price in effect during the base period, apparel manufacturers may add certain increases in manufacturing materials costs, direct labor costs, indirect material costs and indirect labor costs, from the selected base period up to the cut-off date. This regulation provides for a segregation of indirect from direct material and labor costs because of the greater difficulty in the apparel industries of allocating such indirect costs to particular articles. Consequently, a method is provided whereby manufacturers may determine percentage factors for these indirect costs to be applied to particular articles instead of attempting to compute for the particular article the applicable indirect costs.

Where an apparel manufacturer produces a new article which differs from one which he produced in the base period only by reason of differences in style or by reason of its being manufactured of a different basic material, he is required by this regulation to price such new article by relation to a group of similar articles which he manufactured during the base period.

For the purpose of making this comparison, the apparel manufacturer is required to take all the styles of articles in the same category as the article being priced which were sold in the base period at the same price to the same class of purchaser. From this group of articles the manufacturer selects the fewest number of styles which accounted for fifty per cent of the total dollar volume of sales or production of the group. He then determines the average percentage markup over direct labor and material costs of the selected articles, based upon their costs as of the cut-off date and their new ceiling prices, and applies this percentage markup to the unit direct cost of the new article to determine its ceiling price.

Provision is made for pricing by new sellers on the basis of competitors' prices and for pricing of new categories offered by base period manufacturers.

This regulation gives methods of calculation which are usable by manufacturers who lack extensive records. Because of its narrower coverage it is able to offer more precise definition of terms than is the Manufacturers' General Ceiling Price Regulation. It provides methods of costing by employers of contractors and by manufacturers whose operations are integrated, and gives detailed instructions for calculating allowable base period and terminal costs and prices in such cases.

This regulation provides price rounding techniques to permit sellers to follow customary price line pricing practices and to maintain their established positions in their customary price ranges. These techniques operate by allowing a manufacturer to vary his prices, within narrow limits, from the precisely calculated new prices, provided his total receipts from sales of all articles be no more, at the end of each rounding period, than the receipts would have been had each article been sold at its calculated ceiling price.

Record keeping and reporting requirements. Manufacturers are required under this regulation to prepare and preserve certain records showing the calculation of the various adjustments provided for under this regulation and the calculation of ceiling prices. There are included in Appendix B of the regulation specimen forms showing the information required for most of the important calculations under this regulation. In preparing the records corresponding to the forms designated Exhibits 1, 2, 3 and 4 in Appendix B, manufacturers are required to conform to the general arrangement of data indicated in these Exhibits. Inasmuch as the Director may from time to time require manufacturers to submit some or all of these records it is advisable that these records be prepared in duplicate.

On or before the effective date of this regulation, August 15, 1951, manufacturers are required to prepare and file with the Office of Price Stabilization a statement containing the information required under section 3 of the regulation.

The Director of Price Stabilization expects, in due course, to issue an amendment providing for a recalculation of ceiling prices under this regulation. The purpose of this recalculation will be to reflect more accurately the materials prices established by other ceiling price regulations.

Small business exemption. It is recognized that many small manufacturing concerns may find it more difficult than larger companies to make the calcula-

tions prescribed in this regulation. Consequently, any manufacturer whose gross sales during his last annual accounting period were less than $50,000 may elect to continue to price his products under the provisions of the General Ceiling Price Regulation rather than under this regulation.

The cut-off date. The cut-off date for this regulation has been fixed at March 15, 1951 for labor costs (except for increases to Puerto Rican and Virgin Islands labor ordered by the Department of Labor, effective June 4, 1951) and June 4, 1951 for materials costs, thus differing from Ceiling Price Regulation 22, which fixed December 31, 1950 and March 15, 1951 as cut-off dates for different materials costs.

The June 4, 1951 cut-off date for materials costs has been selected for this regulation for two reasons: (1) many of the materials used in the manufacture of apparel were not being quoted and not being delivered on and for some time prior to March 15, 1951; (2) in view of the style and seasonal characteristics of the apparel industries it was felt that the cut-off date should relate to the particular materials which the manufacturer will use in the manufacture of articles during the season following the issuance of this regulation. The cut-off dates of December 31, 1950 or March 15, 1951 prescribed in Ceiling Price Regulation 22 would have no relation to the materials which the manufacturer will be using in the coming season. The materials received on those dates were used generally in the manufacture of articles for the Spring season. Since manufacturers generally use different types of materials in the manufacture of articles for the Fall season it was felt that a more recent cut-off date was required.

Consultation with representatives of industry. The wide diversity of industries in the apparel field covered by this regulation made it a practical impossibility to consult in detail with representatives of all the industries affected. However, consultations were held with a number of business leaders selected from many major branches of the apparel industry, and their advice and suggestions were given the most careful consideration in the formulation of the final regulation. Consultations were also held with a number of accounting specialists with respect to the cost-accounting features of the regulation, and its provisions were informally discussed with numerous representatives of different industries.

Findings of the Director. In the judgment of the Director of Price Stabilization, the issuance of this regulation is imperative to correct the distortions in the structure of apparel prices which were frozen by the General Ceiling Price Regulation. The adjustment of these distortions cannot await the necessarily lengthy process of issuing tailored regulations for all branches of the apparel industry. To permit such delay would be to court disastrous effects upon production and distribution. By easing the immediate pressures, this regulation will provide the time needed to work out a more precise and fully integrated system of continuing controls. Work on such a system, which has been under way at a constantly increasing pace ever since the issuance of the General Ceiling Price Regulation, will now be further accelerated.

The provisions of this regulation and their effect upon business practices, cost practices or methods, or means or aids of distribution in the industry have been carefully considered. Generally only such changes in normal practices have been made as are necessary to prevent circumvention or evasion of the regulation or to effectuate the policies of the Defense Production Act of 1950.

In the judgment of the Director, the ceiling prices established by this regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950.

STATEMENT OF CONSIDERATIONS FOR THIS REVISION

Since the issuance on June 14, 1951 of CPR 45, questions raised by the industry and further study of some of the problems involved have indicated the need for clarifying and correcting some of the provisions of the regulation, and for certain substantive changes. This revision brings the pricing techniques of the regulation more in line with customary practices of apparel manufacturers, simplifies certain calculations required therein, and clarifies the meaning of certain sections.

The original wording of section 1 created some doubt as to whether articles of apparel made of plastic materials are covered by the regulation when not sewed as part of the assembly operation. Section 1 therefore has been revised to make it clear that all plastic articles of apparel are covered by CPR 45, whether or not sewed as part of the assembly operation.

In reports filed pursuant to the original section 3 many manufacturers have failed to describe their categories properly. The wording of that section, therefore, has been revised so as to refer specifically to section 6, where the term "categories" is defined.

Section 4 has been revised to allow, to manufacturers making sales at retail, a retail markup on their cost adjustments. This revision was deemed necessary in view of the fact that manufacturers who sell at retail have distribution costs similar to those of other retailers. A new section 21 has been inserted in the regulation; this section provides the method for calculating a retail markup on cost adjustments which will reflect the individual manufacturer's base period experience. Where a manufacturer is unable to calculate a retail markup on the basis of his own experience, he is permitted to use, as a retail markup on his cost adjustments, the percentage markup permitted to retailers under Appendix E of CPR 7.

The definition of "sales at retail" has been expanded to include sales to commercial, industrial and institutional users, inasmuch as manufacturers making such sales are subject to many of the problems and additional costs incident to all retail sales.

Other sections of the regulation have been revised so as to distinguish between retail sales and non-retail sales. For example, a manufacturer who sold an article during the base period, but did not sell it at retail, must treat it as a new article for the purpose of determining a retail ceiling price for it; further, a manufacturer who made no sales at retail during the period July 1, 1949 to April 2, 1950 is considered a new seller insofar as retail sales are concerned, though during that period he did make non-retail sales. Throughout the regulation the relevant sections have been revised so as to avoid the determination of retail ceiling prices on the basis of non-retail base period experience, and the determination of non-retail ceiling prices on the basis of retail base period experience.

It has come to the attention of the Office of Price Stabilization that a manufacturer of varied product lines is handicapped in being limited to four base periods, since that number is insufficient to enable him to reflect in his ceiling prices the seasonal variations of his different product lines. Therefore, section 5 has been revised so as to allow the use of six base periods within the period July 1, 1949 to June 24, 1950, instead of the four base periods previously allowed.

The definition of "largest buying class of purchaser" has been revised so as to require selection of a class of purchaser with respect to a category or a group of related categories, rather than with respect to each individual article. The previous definition made necessary an exhaustive examination of base period invoices in order to determine which class of purchaser purchased the largest dollar amount of each article sold during the base period. The revised definition will reduce the amount of work involved, and will avoid distorted results in the use of the comparison articles pricing method in sections 23 through 28 by insuring that the price of each base period article in the comparison groups of articles is a price to the same class of purchaser.

The definition of "article" has been revised to make clear that two articles are different articles if made of materials which are not of equivalent quality and construction; furthermore, the definition has been revised to the effect that articles differing solely in color or pattern are not the same if the cost of their material varies solely because of such difference in color or pattern, and such articles were sold at different prices during the base period solely because of such difference in cost. The previous definition would have required a manufacturer to price his lower cost colors in accordance with his base period prices for the higher cost colors, though he normally sold them at different prices; this revision will prevent such distortions of the normal pricing practices in the industry.

The definition of "category" has been revised so that articles shall be classified according to their "body materials", as distinguished from linings, trimmings and ornamentation. This revision is made in order to avoid situations in which two garments made of the same

body material, such as wool, and ordinarily classed together by manufacturers, would have been put in different categories because one of the garments has a fur collar, or lining, having a greater dollar value than that of the wool material.

In order to conform with the customary accounting practices of the industry, section 8 is revised to expressly exclude "make-up pay" as an element of direct labor cost; it is included, instead, as an element of indirect labor cost under section 17. Furthermore, the fringe benefits to be included as an element of direct labor cost are expressly limited to those paid for workers performing direct labor; the cost of similar benefits paid for workers performing indirect labor are included in indirect labor costs. As revised, the regulation requires that all changes in the cost of fringe benefits, whether increases or decreases, be reflected in the labor cost adjustments.

Two additional methods of calculating the direct labor cost adjustment have been added by this revision. The regulation originally provided only one method—the individual article method, and it has developed that the records of many manufacturers are not sufficiently detailed to permit the separate calculation of the adjustment for each article. The alternative methods provided by this revision permit a manufacturer to use figures based on an entire category or group of related categories, or upon his entire business in articles covered by the regulation. A manufacturer who uses either the individual article method or the category method is required to use the same method as to all articles in the same category. A manufacturer using the entire business method must use it for all articles covered by the regulation. Manufacturers are prohibited from including in their calculations any labor costs which enter into the manufacture of a manufacturing material produced in one unit of their business and transferred to another unit where it is used in the production of the article being priced.

Paragraph (b) of section 10 is revised so as to make clear, in accordance with the original intent of the regulation, that a manufacturer using contract labor is required to deduct only the cost of manufacturing materials from the contractor's invoiced manufacturing charge before computing the 80% which he is permitted to use as his direct labor cost. The original wording of this paragraph raised some question as to whether the cost of indirect materials also was to be deducted from the contractor's invoice.

Section 11 previously permitted the inclusion of machinery rentals, and royalties on manufacturing processes, as elements of manufacturing materials costs. In order to conform to customary accounting practices in the industry, such costs will now be treated as indirect materials costs. Furthermore, it has been called to the attention of the Office of Price Stabilization that permitting the charging of all machinery rentals as manufacturing materials costs would give an unwarranted advantage to manufacturers who rent their machines in preference to purchasing them. To forestall this advantage, the only machinery rentals which will be permitted as an element of costs are rentals on that machinery which performs a specific operation that cannot be performed on machines normally available for purchase.

Since the issuance of the original regulation it has become apparent that many manufacturers are able to determine the net cost of a given manufacturing material as of one of the prescribed dates, but not as of the remaining prescribed date, under the provisions of former section 16, now section 15. Heretofore such manufacturers have had to apply to OPS for an appropriate adjustment in the cost of that material. In order to avoid the delays incident to the filing and granting of applications, a method of determining the cost as of the remaining prescribed date has been added to this section. This method involves the selection of a comparable material for which the net cost has been determined as of both dates, and applying the change in cost of that material to the one being costed.

Former section 17, now section 16, has been revised to provide for the situation where a material produced in one unit of a manufacturer's business and transferred to another unit was not sold or transferred during the base period for the category which includes articles manufactured from that material. In such case the manufacturer is required to use in his calculations the base period ended closest to June 24, 1950.

Many manufacturers who started business in April, May or June of 1950 have complained because, though they were not in business for at least one full base period, and had very little selling and manufacturing experience prior to June 24, 1950, they nevertheless were required to use their short experience as a basis for determining ceiling prices. In order that no manufacturer shall be required to determine ceiling prices on past experience unless he has at least one full base period, section 30 has been revised to provide that a manufacturer is a new seller if he made no sales prior to April 2, 1950.

The definition of "classes of purchasers" in section 53 is revised to reflect the distinction, now indicated throughout the regulation, between determination of prices for retail sales and for non-retail sales. A manufacturer selling at both retail and non-retail is required to make one determination of his classes of purchasers with regard to his retail sales, and another with regard to his non-retail sales.

The definition of the term "manufacturer" has been clarified so as to clearly exclude from the coverage of the regulation any person who sells an article to an ultimate consumer in substantially the same form in which he purchased it.

Several other changes have been made in order to clarify certain sections, render them easier to apply, and to reflect revisions made in other sections. Several minor errors have been corrected. A new exhibit showing a sample work sheet as to one comparison group of articles has been added.

The mandatory effective date of Ceiling Price Regulation 45 was originally set at August 15, 1951. The Office of Price Stabilization is engaged in developing procedures to implement section 104 (e) of the recent Pub. Law 96 which adds a new paragraph 402 (d) (4) to the Defense Production Act of 1950. Pending issuance of an appropriate regulation reflecting these new provisions, the Office of Price Stabilization is extending for an indefinite period the mandatory effective date of Ceiling Price Regulation 45. Appropriate advance notice will be given of the date on which this regulation will be required to be put into effect.

A manufacturer covered by this regulation is permitted to make it effective as to him at any time prior to whatever mandatory date may later be prescribed. In order to obtain consistent price levels within any given category, an apparel manufacturer who chooses to price any article in a category under Ceiling Price Regulation 45 is required to price all articles in that category under Ceiling Price Regulation 45. Thus, if he sells one or more articles in a category at increased prices permitted by the regulation he cannot avoid any rollbacks which may be required by the regulation on other articles within the same category. Any waiting periods prescribed before new ceilings can be put into effect must, of course, be met.

In the judgment of the Director of Price Stabilization this revision is generally fair and equitable and will effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

In formulating this revision the Director has consulted with representatives of industry to the extent practicable under the circumstances and has given consideration to their recommendations.

REGULATORY PROVISIONS

COVERAGE

Sec.

1. Sellers and sales covered by this regulation.
2. Small business exemption.
3. When to begin pricing under this regulation.

CEILING PRICES FOR ARTICLES DEALT IN BETWEEN JULY 1, 1949 AND JUNE 24, 1950

4. General description of pricing method.

BASE PERIOD PRICE

5. Base period.
6. Largest buying class of purchaser, article, and category.
7. How to obtain your base period price.

HOW TO CALCULATE THE DIRECT LABOR COST ADJUSTMENT

8. Direct labor cost.
9. Direct labor cost adjustment.
10. How to compute direct labor cost where manufacturer uses contract labor.

HOW TO CALCULATE THE MANUFACTURING MATERIALS COST ADJUSTMENT

11. Manufacturing material.
12. General instructions.
13. Method 1 (Individual article method).
14. Method 2 (Category method).

SPECIAL INSTRUCTIONS TO BE FOLLOWED IN CALCULATING THE MANUFACTURING MATERIALS COST ADJUSTMENT

15. How to compute the net cost of a manufacturing material as of a prescribed date.

AUTHORITY: Sections 1 to 53 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

COVERAGE

SECTION 1. *Sellers and sales covered by this regulation.* This regulation covers you if you are a manufacturer located in the United States or in the District of Columbia (not including territories or possessions) of (a) apparel, apparel furnishings, or apparel accessories, made of textile materials, leather, fur, plastic, other materials which are normally sewed as part of the assembly operation, or a combination of any such materials, or (b) component parts manufactured exclusively for further processing into or for use as a part of apparel, apparel furnishings or apparel accessories, or (c) footwear made of felted, knitted, or woven fabrics, or combinations of such fabrics, and which is not normally made by shoe or rubber manufacturers. This regulation applies to the sale, including sales at retail, of any such articles of which you are the manufacturer even though all or any part of the manufacturing operations are performed outside the continental United States. Examples of articles which are covered by this regulation and of articles which are not covered by this regulation are contained in Appendix A.

This regulation supersedes the General Ceiling Price Regulation for sales by manufacturers of the articles covered by this regulation.

SEC. 2. *Small business exemption.* If your gross sales of articles covered by this regulation for your last complete fiscal year preceding the effective date of this regulation were less than fifty thousand dollars, you may elect not to use this regulation. If you so elect, however, you may not use this regulation for determining the ceiling price of any article which would otherwise have been covered by this regulation. In that event, you shall determine the ceiling price of your articles in accordance with the General Ceiling Price Regulation. If your gross sales of articles covered by this regulation reach fifty thousand dollars in any fiscal year, you are required to use this regulation and must continue thereafter to price under it.

SEC. 3. *When to begin pricing under this regulation.* (a) You may begin to price and sell articles in accordance with this regulation at any time after its issuance; if you price and sell any article in a category in accordance with the provisions of this regulation, you must price and sell all articles in the same category in accordance with its provisions. On and after the mandatory effective date of this regulation, you must price and sell all articles covered by it in accordance with its provisions.

(b) On or before the mandatory effective date of this regulation, you must file a report with the Office of Price Stabilization, Apparel Branch, Washington 25, D. C., by registered mail, return receipt requested, stating the following:

(1) Your name and address.

(2) The address of the office where your records are kept.

(3) A list of your categories which you have established in accordance with section 6 (c) of this regulation, including a description of the basic material used in each category.

(4) The base period selected for each category.

(5) A list of the classes of purchasers to which you sold during the period July 1, 1949 through June 24, 1950.

(6) If you elect to round ceiling prices of articles under either section 35 or 36, indicate for each category the number of the section which you elect to use.

This report must be signed by an officer or authorized agent of your company and dated.

On and after the mandatory effective date of this regulation you may not sell or deliver any articles covered by this regulation unless and until the report required under this paragraph has been filed.

CEILING PRICES FOR ARTICLES DEALT IN BETWEEN JULY 1, 1949 AND JUNE 24, 1950

SEC. 4. *General description of pricing method.* (a) Your ceiling price to your largest buying class of purchaser other than at retail, and your ceiling price to your largest buying class of purchaser at retail, for sale of an article which you sold or offered for sale to that class of purchaser in your base period, is your base period price for that article to that class of purchaser plus:

(1) The direct labor cost adjustment,

(2) The manufacturing materials cost adjustment,

(3) The indirect labor cost adjustment,

(4) The indirect materials cost adjustment, and

(5) For sales at retail, the retail markup on cost adjustments.

If you cannot establish your base period price for an article under paragraphs (a), (b) or (c) of section 7 of this regulation because, though you dealt in the article during your base period you did not sell or offer it for sale to your largest buying class of purchaser, you must price that article under sections 23 to 28 of this regulation.

Section 5 explains the meaning of "base period". Section 6 explains the meaning of "your largest buying class of purchaser", "article", and "category". Section 7 tells how to obtain your "base period price". Sections 8 to 10 tell how to calculate "the direct labor cost adjustment". Sections 11 to 16 tell how to calculate "the manufacturing materials cost adjustment". Sections 17 and 18 tell how to calculate "the indirect labor cost adjustment". Sections 19 and 20 tell how to calculate "the indirect materials cost adjustment". Section 21 tells how to calculate "the retail markup on cost adjustments". Section 53 defines "sales at retail".

(b) Your ceiling price for sale of the article to your largest buying class of purchaser must be consistent in every respect with the base period price used, i. e., the ceiling price must carry the same delivery terms, cash, trade and volume discounts, allowances, premiums and extras, deductions, guarantees, servicing terms, and other terms and conditions of sale.

(c) Your ceiling price for sale of the article to any other classes of purchasers to whom you made sales during your base period is determined by applying your price differentials last used during your base period. In the event you made no base period sales to a particular class

of purchaser, you apply your customary differentials in effect during the period July 1, 1949 to June 24, 1950. If you are selling to an entirely new class of purchaser, you determine your ceiling price for that class of purchaser under Section 31. For each class of purchaser you must maintain all customary delivery terms, cash, trade and volume discounts, allowances, premiums and extras, deductions, guarantees, servicing terms, and other terms and conditions of sale which you had in effect during your base period. An explanation of what is meant by "class of purchaser" is found in section 53.

(d) *Required record.* Before you sell an article for which your ceiling price is established under this section, you must prepare and preserve work sheets showing your calculation of the ceiling price of that article and the information required in Exhibit 1 (Appendix B). On or before the mandatory effective date of this regulation you must prepare a separate record for each category in the form prescribed in Exhibit 1 covering all the articles in that category which you are pricing under this section. On and after the mandatory effective date of this regulation you may not deliver any article for which your ceiling price is established under this section unless and until a record in the form prescribed in Exhibit 1 covering that article has been prepared. In the case of an article whose ceiling price is determined under this section and which you do not offer for sale until after the mandatory effective date of this regulation, you must prepare a separate record for such article in the form prescribed in Exhibit 1 within fifteen days after the article is first offered for sale, or before delivery, whichever date is earlier.

BASE PERIOD PRICE

SEC. 5. *Base period.* You may select as your base period for a category any three consecutive calendar months between July 1, 1949 and June 24, 1950. The period from June 1, 1950 to June 24, 1950 shall be considered, for purposes of this section, to constitute a calendar month. Whatever base period you select for a category must be used for all articles in the same category. You may select different base periods for different categories. However, you may not establish more than six base periods for all the categories of articles which you manufacture. The calender months within any of these six base periods may overlap—for example, you may select as your base period for category A the months of January, February and March 1950; for category B you may select the months of February, March and April 1950.

SEC. 6. *Largest buying class of purchaser, article, and category.*

(a) The term "largest buying class of purchaser" refers to either of the following classes of purchaser:

(1) That class of purchaser which purchased from you, during the period July 1, 1949 to June 24, 1950, the largest dollar amount of articles in the category which includes the article you are pricing; or

(2) That class of purchaser which purchased from you, during the period July 1, 1949 to June 24, 1950, the largest dollar amount of articles in a group of related categories, one of which includes the article you are pricing. (The term "related categories" refers to categories which differ only in basic material or seasonal adaptability or both). If you use this second class of purchaser for pricing in one category of a group of related categories, you must use it for the entire group, subject, however, to the following exception: As to any category in which, during your base period for it, you did not sell each article in that category to this second class of purchaser, you must use the first class of purchaser above listed.

(b) "Article" refers to a specific style, type or model of a commodity covered by this regulation. To determine whether an article is the same as another article, and, therefore, is to be given the same ceiling price as that other article, the following rules shall be applied: Two articles are the same if (1) they have the same purpose; (2) they are made of the same basic material of equivalent quality and construction; (3) they consume substantially the same quantity of such basic material for the same size; (4) they have the same construction; and (5) they have the same appearance. Two articles differing only in color or pattern, however, are the same unless (1) the cost of the material used in them varies solely because of the difference in color or pattern, and (2) you sold such type of articles in your base period at different prices solely because of the variance in cost due to color or pattern, respectively. If you are pricing under sections 4 through 29 of this regulation and you did not sell articles during the base period made of materials which differed in cost solely because of their color or pattern, you must treat two articles as the same unless it was customary in the industry to sell them at different prices solely because of such differences. As to all articles which you must price under section 30, you must follow the rules applicable to your most closely competitive seller for determining whether one article is the same as another when they differ only as to color or pattern.

(c) "Category" means a group of related articles which are normally classed together in your industry for purposes of production, accounting, sales, or seasonal adaptability. You may not include in the same category articles manufactured from different basic materials, such as cotton, wool, silk, or different synthetic materials. In classifying a material which is a blend of different fibers, the material shall be classified according to that fiber having the greatest content by weight, or if they are equal by weight, then by that fiber having the greatest dollar value, except that a material containing 25 percent or more of wool by weight shall be classified as a wool material. In the event an article has separate component parts made of different materials (such as component parts of leather, rayon, and wool), the article shall be classified according to that body material having the greatest total dollar value. Linings, trimmings, and ornamentation are not considered body material. For example, a wool coat with a fur collar would be classified in a wool coat category irrespective of the value of the fur. A cotton poplin jacket lined with wool would be classified in a cotton jacket category. Once you have selected a category for an article, you may not thereafter include the article in a different category, except with the authorization of the Director of Price Stabilization, upon your written request.

SEC. 7. *How to obtain your base period price.* The paragraphs below tell you how to obtain your base period price for an article. For your sales at retail, "price" as used in this section means your retail price.

(a) If, during your base period, you delivered the article or contracted in writing to sell the article at a firm price, you find the highest price to your largest buying class of purchaser at which such a delivery or such a contract of sale was made.

(b) If you did not make such a delivery or contract, you find the highest price at which you made a written offer during the base period to your largest buying class of purchaser, provided that a written contract was made at such offering price within 90 days after the end of the base period or substantial deliveries were made at such price within the period of time customarily allowed in your trade for processing and shipment.

(c) Instead of the price under (a) or (b), you may use your price to your largest buying class of purchaser which you announced in writing in a price list, catalogue, or similar statement which you customarily used showing your prices for one or more articles. To use this paragraph (c), you must either have announced the prices during your base period, or have announced them previously and had them in effect during your base period; these prices must have been communicated to the trade or a substantial number of customers in your customary way. Further, you must either have contracted in writing within 90 days after the end of the base period to make substantial deliveries of any of the listed items at the prices in the list or have made substantial deliveries at these prices within the period of time customarily allowed in your trade for processing and shipment. If you use this paragraph (c) for any article you must use it for all articles in the same category which are covered by the same announcement.

(d) If your base period price includes any excise, sales or other similar tax which is not separately stated, you must follow the instructions contained in section 41.

(e) If your base period price is expressed as a gross or list price less discounts, you may make the adjustments of the base period price under section 4 (a) upon the basis of the net price to your largest buying class of purchaser.

Example: Your base period gross or list price for article A is $10.00 less an 8% discount to your largest buying class of pur-

chaser. The direct labor cost adjustment, the manufacturing materials cost adjustment and the indirect labor and material cost adjustments which you are permitted to add to your base period price total $1.61. You first take 92% of $10.00, thus applying the 8% discount. The resulting amount, $9.20, plus $1.61, equals $10.81. This is your net ceiling price to your largest buying class of purchaser. You can figure your gross or list ceiling price by dividing your net ceiling price ($10.81) by the same percentage (92%), giving $11.75. Applying the 8% discount to your largest buying class of purchaser gives you $10.81, or your net ceiling price to that class of purchaser.

(f) If, during the base period, you customarily produced the same article at two or more manufacturing establishments of your business and sold it at different prices depending upon the place of production, you must obtain a separate base period price and determine a separate ceiling price for that article for each such establishment.

HOW TO CALCULATE THE DIRECT LABOR COST ADJUSTMENT

SEC. 8. *Direct labor cost.* This term means the cost of labor that enters directly into the production and packaging (other than shipping) of the article, including the cost of so-called "fringe benefits" (as defined in section 53), for workers performing direct labor. Direct labor includes such items as marking, cutting, sewing, pressing, finishing, and factory examination. It does not include labor used in packing for shipment, general administration, sales and advertising, research, or in making repairs to or maintenance of plant or equipment. Labor cost must be calculated on a straight time basis. You may not include overtime or holiday premiums, or make-up pay. Section 9 provides two alternative methods of dealing with the cost of "fringe benefits."

SEC. 9. *Direct labor cost adustment.* This section provides three methods for determining your direct labor cost adjustment. If you use either the individual article method or the category method for determining your direct labor cost adjustment for an article, you must use the same method for all articles in the same category. If you use the entire business method, you must use it for all your articles covered by this regulation.

The direct labor cost adjustment is the difference, computed under one of the three permissible methods, in the direct labor cost of an article based upon the change in wage rates between the base period prescribed date, which is the first day of the relevant base period, and the terminal prescribed date, which is March 15, 1951. You may not include in your calculations any labor costs which enter into the manufacture of a manufacturing material which you produce in one unit of your business and transfer to the unit of your business which uses it in producing the article being priced. Furthermore, you may not include in your wage rates in effect on March 15, 1951, any adjustment of wage rates made thereafter, even though the adjustment may be made retroactive to March 15, 1951, or some prior day. Such retroactive adjustment may not be included, whether made pursuant to an express provision in a contract in effect on March 15, 1951, or otherwise.

(a) *Individual article method.* (1) To calculate the direct labor cost adjustment of an article under the individual article method you do the following:

(i) Find your base period direct labor cost for the article. To do this, you must use the wage rates for each operation in effect on the first day of the base period selected for the category including that article.

(ii) Find your terminal direct labor cost for the article. To do this, you must use the wage rates for each operation in effect on March 15, 1951. (In the event you use labor in Puerto Rico or the Virgin Islands of the United States, you may adjust your wage rates in effect on March 15, 1951 for such labor to reflect increases resulting from minimum wage orders issued by the Administrator, Wage and Hour Division of the U. S. Department of Labor, prior to June 5, 1951.) You may include the cost of "fringe benefits" in the calculations under subdivision (i) of this subparagraph and under this subdivision, or you may omit it from both calculations. If you omit it from both calculations, then you must adjust your terminal direct labor cost, as found under this paragraph, to reflect any change between the base period prescribed date and March 15, 1951 in the cost to you of "fringe benefits".

(iii) Find the difference between the base period direct labor cost found in subdivision (i) of this subparagraph and the terminal direct labor cost found in subdivision (ii) of this subparagraph. The resulting figure is your direct labor cost adjustment which must be added to the base period selling price of that article in accordance with section 4 (a) of this regulation.

(iv) In computing the direct labor cost for an article under subdivisions (i) and (ii) of this subparagraph, you shall allocate the permitted labor costs for each operation according to your customary accounting method on the basis of the method of wage payments which you use—e. g., piecework, timework or hourly rate of pay, or any other method of wage payments used by you.

(2) If the article being priced is one which you manufactured at more than one plant (whether owned by you or a contractor) in which the direct labor costs are different, but you sold such article at a uniform price, you determine your direct labor cost adjustment for that article as follows:

(i) Find the amount of the direct labor cost adjustment applicable to the article for each plant in accordance with the method described in subparagraph (1) of this paragraph.

(ii) Multiply each such amount by the total number of that article produced in the applicable plant during the last fiscal year of which your base period was a part. This gives you the aggregate plant adjustment.

(iii) Add together all of the aggregate plant adjustments arrived at in subdivision (ii) of this subparagraph. This gives you the aggregate adjustment for all of your plants.

(iv) Divide the aggregate adjustments for all of your plants arrived at in subdivision (iii) of this subparagraph by the total number of that article produced in all your plants during the last fiscal year of which your base period was a part. The resulting figure is your direct labor cost adjustment for the article.

(b) *The category method.* To calculate the direct labor cost adjustment of an article under this method you do the following:

(1) Find the dollar amounts of your net sales and your direct labor payroll for all articles in each category (or group of related categories) for your last fiscal year ended not later than December 31, 1950. The term "related categories" means categories which differ only in basic materials or seasonal adaptability, or both.

(2) Divide the dollar amount of your direct labor payroll found in subparagraph (1) of this paragraph by the dollar amount of your net sales for the category (or group of related categories) found in subparagraph (1). This will show what percentage your direct labor cost is of your net sales. This percentage is referred to as your "direct labor cost ratio".

(3) Find the dollar amount of your direct labor payroll for the category (or group of related categories), for that payroll period which includes the first day of your base period for the category (or group of related categories). If your base periods for the categories in a group of related categories differ, use the base period which you have selected for the category which, in that group, had the largest aggregate dollar volume of sales in the last fiscal year ended not later than December 31, 1950. This payroll is referred to as your "base period direct labor payroll".

(4) Compute what the amount of your base period direct labor payroll, found in subparagraph (3) of this paragraph, would have been upon the basis of your wage rates in effect on March 15, 1951. This is referred to as "your terminal direct labor payroll". In making this computation you must comply with the provisions of paragraph (a) (1) (ii) of this section with respect to labor used in Puerto Rico and the Virgin Islands, and to fringe benefits.

(5) Divide the dollar amount of the difference between your terminal direct labor payroll and your base period direct labor payroll by your base period direct labor payroll. The resulting percentage is referred to as your "wage increase factor".

(6) Multiply your direct labor cost ratio found in subparagraph (2) of this paragraph by your wage increase factor found in subparagraph (5) of this paragraph. The resulting percentage is referred to as your "direct labor cost adjustment factor".

(7) Multiply the base period price of the article being priced by your direct labor cost adjustment factor for the category (or group of related categories) which includes that article. The result-

ing amount is the direct labor cost adjustment to be added to the base period price of the article in accordance with section 4 (a) of this regulation.

(c) *The entire business method.* To calculate the direct labor cost adjustment for an article upon the basis of your entire business, you perform the calculations described in subparagraphs (1) through (7) of paragraph (b), except that in those calculations you must use the figures for your entire business with respect to articles covered by this regulation, instead of the figures for each category or group of related categories. The payroll period used in the calculations performed pursuant to paragraph (b) (3) shall be the one which includes the first day of your base period for that category having the largest aggregate dollar volume of sales in the fiscal year ending not later than December 31, 1950.

(d) You must preserve all payroll records and work sheets supporting your calculation of the direct labor cost adjustment under whichever method you use.

SEC. 10. *How to compute direct labor cost where manufacturer uses contract labor.* If you use contract labor in the manufacture of the article sold, you must compute your labor cost in accordance with the following instructions:

(a) If the contractor separates his labor cost in his invoice, you use that cost as your labor cost.

(b) If the contractor does not separate his labor cost from other charges on his invoice, you use as your labor cost 80 percent of his invoiced manufacturing charge, excluding the cost of manufacturing materials.

HOW TO CALCULATE THE MANUFACTURING MATERIALS COST ADJUSTMENT

SEC. 11. *Manufacturing material.* You will need to become familiar with the term "manufacturing material" (sometimes referred to as "material") in the following sections. "Manufacturing material" refers to a material entering directly into the article being priced or used directly in the manufacturing processes from which the article results, together with tags, labels, and packaging (other than shipping) materials. You may not include, in the cost of manufacturing materials, rentals on machinery and royalties on machinery and manufacturing processes (see section 19). You may not include royalties paid for the use of brand or trade names or other promotional features in connection with the sale of articles; such royalties are considered a selling expense.

For all calculations in determining the cost of materials in each article manufactured in a size range, use the amount of material which most nearly reflects the average consumption of that material per article within the size range.

SEC. 12. *General instructions.* (a) There are two alternative methods available to you for calculating the "manufacturing materials cost adjustment." You should use the one better suited to the nature of your business and more adaptable to the records you maintain. You may select either method for each category, but whichever method you use for a particular category must be used for all articles in that category. The purpose of this adjustment is to establish the change between prescribed dates in the net cost of the manufacturing materials of the article being priced.

(b) *Prescribed dates.* Under either of the two alternative methods you select for calculating the "manufacturing materials cost adjustment", you will be figuring the change, between prescribed dates, in the net cost per unit of each manufacturing material included in your calculations of the cost of the article being priced. The first prescribed date is referred to as the "base period prescribed date." The recent prescribed date is referred to as the "terminal prescribed date." The base period prescribed date for each category will be the first day of the base period selected for that category. This date will vary, therefore, depending upon the base period selected for the category. The terminal prescribed date is June 4, 1951.

SEC. 13. *Method 1 (Individual article method).* To calculate the materials cost adjustment under this method you do the following:

(a) Find the physical amount of each manufacturing material which you used in the base period per unit of the article being priced.

(b) Multiply this physical amount of each of these manufacturing materials by the change in net cost per unit of such materials between the base period prescribed date for the category in which the article falls and the terminal prescribed date. In calculating the change in net cost, you must observe carefully the instructions contained in section 16.

(c) Add together the resulting figures derived under paragraph (b) which represent increases in net cost. Do the same with the resulting figures which represent decreases in net cost. The difference between these totals is the manufacturing materials cost adjustment. This figure is to be added to the base period price of the article in accordance with section 4 (a).

SEC. 14. *Method 2 (Category method).* To calculate the materials cost adjustment under this method you do the following:

(a) Select the fewest number of articles in a category which accounted for 50 percent of the total dollar volume of sales or production of all articles in that category during the base period. If you had differentials in effect during your base period for sales to different classes of purchasers and therefore sold articles at different prices to different classes of purchasers, you may calculate the dollar volume of sales or production for each article by multiplying the number of units sold or produced by the base period selling price of that article to your largest buying class of purchaser. These articles are to be selected in order of descending volume.

EXAMPLE

In your category of dresses you sold or produced twelve styles during your base period for that category in the following amounts and percentages:

Styles	Sales or production volume	Percent of sales or production volume of this category	Cumulative (percent)
A	$25,000	25	25
B	20,000	20	45
C	10,000	10	55
D	9,000	9	64
E	8,000	8	72
F	7,000	7	79
G	6,000	6	85
H	5,000	5	90
I	4,000	4	94
J	3,000	3	97
K	2,000	2	99
L	1,000	1	100
Total	$100,000	100	100

As you will note, the styles are listed in order of descending volume and percentages. In selecting the styles which accounted for 50 percent of your total dollar volume of sales or production for the category you must start with the style which accounted for the largest volume and then successively include the one having the next lower volume. The total of Styles A and B represents 45 percent of your total volume. In order to reach 50 percent, you must include Style C which represents the next lower percentage of volume. You will therefore use Styles A, B, and C in making your calculation under this section.

(b) Find the physical amount of each manufacturing material which you used per unit of each of the articles selected under paragraph (a).

(c) For each article multiply the physical amount of each of the manufacturing materials found in paragraph (b) by the change in net cost per unit of such manufacturing materials between the base period prescribed date for the category in which the selected articles fall and the terminal prescribed date. In calculating the change in net cost, you must observe carefully the instructions contained in section 15.

(d) Add together the resulting figures derived under paragraph (c) for all the manufacturing materials which represent increases in net cost. Do the same with the resulting figures which represent decreases in net cost. Divide the net difference between these totals by the number of articles selected in paragraph (a). This will give the average dollar increase in materials cost for the articles selected in paragraph (a).

(e) Total the unit base period selling prices of all the articles selected under paragraph (a) and divide the resulting total by the number of articles selected. This will give the average base period selling price of the articles selected.

(f) Divide the result found in paragraph (d) by the result found in paragraph (e). The resulting percentage is the materials cost adjustment percentage for all articles in that category.

(g) Multiply the base period selling price of each article in that category by this adjustment percentage. The resulting figure for each article is the manufacturing materials cost adjustment to be added to the base period selling price of that article in accordance with section 4 (a).

SPECIAL INSTRUCTIONS TO BE FOLLOWED IN CALCULATING THE MANUFACTURING MATERIALS COST ADJUSTMENT

SEC. 15. *How to compute the net cost of a manufacturing material as of a prescribed date.* (a) To calculate the net cost to you per unit of a manufacturing material as of a prescribed date, use the costs or prices determined under the *first* of the following subparagraphs which is available to you:

(1) The weighted average net invoice cost of the material received within 30 days prior to the prescribed date. You must include all deliveries received within such 30-day period except that you may exclude any delivery in that period made pursuant to a contract at a fixed price entered into more than 60 days prior to such date. You may consider this subparagraph unavailable to you for purposes of figuring the cost as of the terminal prescribed date if your total inventory of the manufacturing material as of the close of business on June 4, 1951, was less than 33⅓ percent of your requirements for articles manufactured or scheduled to be manufactured from such material during the period ending September 30, 1951. For this purpose you must use your actual inventory of the manufacturing material regardless when delivery was received or the contract for purchase was made. Your actual inventory includes material which, on June 4, 1951, had been received by any carrier for shipment to you. It does not include material which, on that date, had been incorporated into finished articles.

(2) The net price specified in a contract for purchase of the material at a fixed price, provided that such contract was entered into within 60 days prior to the prescribed date and that it provided for delivery beginning within 60 days after the prescribed date; if there was more than one such contract, use the net price specified in the contract for purchase of the largest quantity of such material.

(3) The net price at which such material was offered for sale to you in writing, provided that such offer was made within 60 days prior to the prescribed date and that it provided for delivery beginning within 60 days after the prescribed date, and that you still have the written offer or obtain a copy of it from the offeror; if there was more than one such offer for sale, use the net price specified in the offer for sale made last prior to the prescribed date by the supplier from whom you customarily buy the largest quantity of such material.

(4) The net price at which the material was offered for sale by one of your usual sources of supply within 60 days prior to the prescribed date, provided that such quotation is confirmed to you in writing by the offeror; if there was more than one such offer for sale, use the net price at which the material was offered for sale, last prior to the prescribed date, by the supplier from whom you customarily buy the largest quantity of such material.

(5) If, pursuant to one of the foregoing subparagraphs, you have calculated your net cost of a manufacturing material as of one of the prescribed dates, but none of said subparagraphs is available to you for calculating your net cost of the same material as of the remaining prescribed date, you must use the following method to calculate your net cost as of the remaining prescribed date:

Of the manufacturing materials for which you have determined your net cost as of both prescribed dates, select the one most nearly comparable, in terms of construction and finish, to the material you are costing under this subparagraph. It must be made of the same fiber or other content (i. e., cotton, wool, rayon, leather, plastic, etc.), it must have been purchased by you from the same class of supplier, and its net cost must not differ by more than 10 percent from the known net cost, on the relevant prescribed date, of the material you are costing under this subparagraph.

Calculate a "cost change ratio" by dividing your net cost on the terminal prescribed date of the most comparable material by your net cost of that material on the base period prescribed date. If your net cost of the material you are costing under this subparagraph is known as of the base period prescribed date, multiply that cost by the cost change ratio to arrive at your net cost as of the terminal prescribed date. If your net cost is known as of the terminal prescribed date, divide that cost by the cost change ratio to arrive at your net cost as of the base period prescribed date.

(6) If none of the foregoing is available to you, you may apply to the Director of Price Stabilization for the establishment of a cost as of the relevant prescribed date, or an appropriate increase in the cost of the manufacturing material between the prescribed dates, or both, for use in your calculations. If you make such an application, you must refer specifically to this paragraph; you must describe the article being priced and the manufacturing material used in the article; you must propose what you consider the appropriate cost, or amount of cost increase, per unit of the manufacturing material based upon what you would have paid for the material if you had purchased it on the relevant prescribed dates. If that material was not available for purchase on the relevant prescribed date or dates, then you may base your proposal on the material most nearly comparable to the one you wish to cost under this subparagraph. You must set forth in detail supporting reasons why this paragraph is applicable.

Your application must be filed with the Office of Price Stabilization, Apparel Branch, Washington 25, D. C., by registered mail, return receipt requested. Furthermore, you may not sell or deliver an article manufactured of material covered by your application until fifteen days after mailing your application. Thereafter, you may sell the article at the ceiling price proposed in your application, unless and until you are notified by the Director of Price Stabilization that your proposed ceiling price or increase in material cost has been disapproved or that more information is required. If more information is requested, you may not sell the article until fifteen days after such information has been furnished to the Director of Price Stabilization by registered mail, return receipt requested. The Director may also stipulate the amount of increase in material cost which you may apply in determining your ceiling price.

(b) In making the calculations under paragraph (a) of this section, you must disregard any price based upon a departure from your normal buying practices; this includes purchases in quantities smaller than those you usually purchase or contract for, or a purchase from a more distant or different class of supplier. In no event may the price you use as of the terminal prescribed date be in excess of the ceiling price established under a ceiling price regulation in effect on such date.

(c) If in the manufacture of an article being priced you use a manufacturing material produced in a unit of your business other than the unit in which the article being priced is produced, you must follow the special instructions contained in section 16.

SEC. 16. *How to calculate the change in net cost of a manufacturing material which is produced in one unit of your business and transferred to another unit of your business.* This section deals with a manufacturing material which you produce in one unit of your business and transfer to another unit of your business where it is used in producing the article being priced. Such a manufacturing material (which is referred to as a "transferred material") may also be one which you sell to other persons. This section sets forth two methods by which you calculate the change in cost of a transferred material in connection with your calculation of "the manufacturing materials cost adjustment" for the article being priced. The method you use depends on whether you also sell the transferred material to other persons.

(a) If the transferred manufacturing material is one which you also sold to other persons during the period July 1, 1949 to June 24, 1950, you calculate its change in net cost as follows:

(1) Find the highest price at which you sold the material during your base period for the category which includes the articles manufactured from that material. This sale must have been made to the class of purchaser which during the period July 1, 1949 to June 24, 1950, purchased from you the largest dollar amount of that material. If you use the material for articles in several categories for which you have selected different base periods, or if you did not sell the material to that class of purchaser during your base period or periods for the category or categories which include the articles manufactured from that material, use the base period ended closest to June 24, 1950.

(2) Find, under the regulation then applicable, your ceiling price of the material to that class of purchaser as of the terminal prescribed date.

(3) The difference between the figure found under subparagraph (2) of this

paragraph and that found under subparagraph (1) is the increase or decrease in cost of the transferred manufacturing material. You use this difference in calculating the "manufacturing materials cost adjustment" for the article being priced.

(b) If the manufacturing material is not one which you sold to other persons during the period July 1, 1949 to June 24, 1950, you calculate its change in net cost as follows:

(1) Find the weighted average value as shown in your records at which the transferred manufacturing material was transferred, during your base period for the category which includes the articles manufactured from that material, to the unit of your business in which the article being priced is produced. If you use the material for articles in more than one category for which you have selected different base periods, or if you did not transfer the material during your base period or periods for the category or categories which include the articles manufactured from that material, use the base period ended closest to June 24, 1950.

(2) Using the weighted average value found in subparagraph (1) of this paragraph as your base period price under the applicable regulation, determine what the ceiling price for the transferred material would be under that regulation as of the terminal prescribed date.

(3) The difference between the figure found under subparagraph (2) of this paragraph and that found under subparagraph (1) is the increase or decrease in cost of the transferred manufacturing material. You use this amount in calculating the "materials cost adjustment" for the article being priced.

HOW TO CALCULATE THE INDIRECT LABOR COST ADJUSTMENT

SEC. 17. *Indirect labor cost.* This term refers to all labor other than direct labor (as defined in section 8) and other than labor used in general administration, sales and advertising, research, or in making major repairs, replacement or expansion of plant and equipment. It includes such labor as foremen, floor help, supervisors, designers, porters, watchmen, shipping and receiving room employees and labor used in materials control, testing and inspection and in making ordinary repairs and maintenance. It also includes the cost of so-called "fringe benefits" for workers performing indirect labor. It further includes all "make-up pay" (as defined in section 53).

SEC. 18. *Indirect labor cost adjustment.* In determining your indirect labor cost adjustment for the article being priced your calculations should be limited to your last fiscal year ended not later than December 31, 1950. Using your profit and loss statement for that fiscal year and such other records as may be required,

(a) Find the total dollar amount of all items of indirect labor costs as defined in section 17.

(b) Find the total dollar amount of all items of direct labor cost as defined in section 8.

(c) Divide the total found in (a) by the total found in (b). The result is your "indirect labor cost percentage."

(d) Multiply the direct labor cost adjustment found under section 9 for each article by the "indirect labor cost percentage" found in paragraph (c) of this section. The result is your "indirect labor cost adjustment" to be added to the base period price in accordance with section 4 (a).

HOW TO CALCULATE THE INDIRECT MATERIAL COST ADJUSTMENT

SEC. 19. *Indirect material costs.* This term refers to the cost of all materials used in the operation of your business other than manufacturing materials as defined in section 11, and other than materials the use of which is not directly dependent upon the rate at which you manufacture the article being priced. It includes royalties on manufacturing processes; it also includes rentals on machinery which performs a specific operation that can be performed only by machinery which is not normally available for purchase. It includes such items as shipping materials (other than returnable containers), purchased fuel, steam or electric energy, ordinary repair and maintenance materials and materials expended directly in manufacturing operations. Materials directly expended in manufacturing operations include such materials as needles, cutting tools, marking chalk, paper for patterns, and jigs and dies (if consumed within a year). It does not include the cost of materials used in connection with general administration, sales and advertising, research, or in making major repairs or replacement of plant or equipment or in expansion of plant or equipment; nor does it include royalties paid for the use of brand or trade names or other promotional features in connection with the sale of articles.

SEC. 20. *Indirect material cost adjustment.* (a) The indirect material cost adjustment is the change in the net cost of indirect materials between June 24, 1950 and the terminal prescribed date as specified in paragraph (b) of section 12. You may make this adjustment in the manner best suited to your customary accounting method.

(b) If your customary accounting method cannot be adapted to compute the change in the cost of indirect materials between such dates, you must use the following procedure:

(1) From your profit and loss statement for your last fiscal year ended not later than December 31, 1950, and such other records as may be required, find (i) the total dollar amount of indirect material costs and (ii) the total dollar amount of your net sales.

(2) Divide the dollar amount of your indirect material costs found under (1) (i) by the dollar amount of your net sales found under (1) (ii). The resulting figure is your "indirect material cost ratio."

(3) You must then find the weighted average percentage change in the cost of such indirect materials between June 24, 1950 and the terminal prescribed date. You may determine the percentage change in cost by using the fewest number of materials (but at least two materials) which represented not less than 25 percent of the total indirect material cost as found in (1) (i). To calculate the percentage change you must first find the dollar-and-cents change between the above-mentioned dates in the unit cost of the materials selected under this subsection. To determine the change in cost apply the instructions in section 15. For each material which you have selected, multiply the physical amount which you used during the fiscal year by the change in its unit cost. Add together the resulting figures and divide the total by the total cost, computed as of June 24, 1950, of the physical amount of the selected materials which you used during the fiscal year. The resulting figure is the percentage change in the indirect material cost.

(4) Multiply the indirect material cost ratio found in (2) by the percentage figure found in (3). The resulting figure is your "indirect material cost adjustment percentage."

(5) Multiply the base period selling price of the article being priced by the "indirect material cost adjustment percentage". The resulting amount is the indirect material cost adjustment which may be added to the base period selling price of that article in accordance with section 4 (a). This percentage may be applied uniformly to the base period selling price of each article which you are pricing.

HOW TO CALCULATE THE RETAIL MARKUP ON COST ADJUSTMENTS

Sec. 21. *Retail markup on cost adjustments.* To calculate your retail markup on your cost adjustments for your sales of an article at retail, you must use whichever of the following methods is first available to you:

(a) *Method one.* (1) First find your base period transfer price for the article. If, during the base period for the article, you transferred it from the manufacturing unit of your business to your retail units at a price specified in an invoice or similar dated document, and such price was no less than your cost for it as of the base period prescribed date, your base period transfer price is the highest price at which you transferred it. The cost referred to in this paragraph is the direct labor cost, manufacturing materials cost, indirect labor cost, and indirect materials cost, as defined in sections 8, 11, 17 and 19 respectively.

(2) Subtract your base period transfer price from your base period price. This gives you your base period retail dollars and cents markup.

(3) Divide your retail dollars and cents markup by your base period transfer price. This gives you your base period retail percentage markup.

(4) Multiply the sum of your cost adjustments for the article, calculated in accordance with the provisions of sections 8 to 20 inclusive, by your base period retail percentage markup. This gives you your retail markup on your cost adjustments.

(b) *Method two.* If you have no base period transfer price, as defined in paragraph (a) (1) of this section, then you

determine the retail markup on your cost adjustments as follows:

(1) Select, from Appendix B of Ceiling Price Regulation 7, the category which includes the article you wish to price; if you do not find listed therein a category which includes the article you wish to price, select the category listed therein which includes the article most nearly like the article you wish to price. You then find, in Appendix E of Ceiling Price Regulation 7, the percentage markup applicable to the category selected.

(2) Multiply the sum of your cost adjustments, determined in accordance with the provisions of sections 8 to 20 inclusive, by the percentage markup so found. This gives you your retail markup on your cost adjustments.

CEILING PRICES FOR NEW ARTICLES FALLING WITHIN CATEGORIES DEALT IN DURING THE BASE PERIOD

SEC. 22. *Coverage.* Your ceiling price for an article is determined under sections 23 to 28 if

(1) You did not deal in the article in the base period but it falls within a category in which you dealt during the base period. (You are deemed not to have dealt in an article during the base period if you dealt in it only at non-retail and you now desire to sell it at retail, or if you dealt in it only at retail and you now desire to sell it at non-retail.)

(2) You dealt in the article during the base period, but you did not sell it to your largest buying class of purchaser, and therefore you cannot determine your ceiling price under section 4.

For example: (i) You sold rayon dresses in the base period and have established a category for rayon dresses. You now manufacture a rayon dress which is of a different style from any style of rayon dress made in the base period. Under the definition of "article" in section 6 such new style of rayon dress is a new article. You price your new style of rayon dress in accordance with sections 23 to 28.

(ii) You now manufacture a rayon dress which is exactly the same as one you sold during the base period; however, your only non-retail sales of that dress in the base period were to wholesalers, whereas your largest non-retail buying class of purchaser for the category of rayon dresses was mail order houses. You cannot determine your non-retail ceiling price for that rayon dress under section 4, and you must therefore price it in accordance with sections 23 to 28.

SEC. 23. *General description of pricing method.* You determine your ceiling price for the new article by applying to the "terminal unit direct cost" of that article a percentage markup arrived at under section 26. This percentage markup reflects the difference between the average ceiling price of a comparison group of articles and the average terminal direct cost of that same group of articles. You will select the comparison group of articles in the manner provided in section 25.

SEC. 24. *Terminal unit direct cost.* (a) "Terminal unit direct cost" as used in this section means the sum of the amounts which it costs you for direct labor and manufacturing materials to manufacture the article, computing the cost of direct labor as of March 15, 1951 and the cost of manufacturing materials as of the terminal prescribed date, in accordance with the instructions in sections 8 through 16.

(b) If you are pricing a new article which you will manufacture at more than one plant (either plants owned by you or a contractor) in which the direct labor costs are different, and you wish to sell the article at a uniform price, you must calculate the terminal direct labor cost of that article in accordance with the method described in section 9 (a) (2). You may determine the weighted average direct labor cost of that article on the basis of your estimate of the proportion in which the article will be produced at different plants for a period of 90 days following the date on which you determine your price for that article.

SEC. 25. *How to select the comparison group of articles.* (a) The first step in establishing a comparison group of articles is to find every article which you sold in the base period which is in the same category as the article you are pricing. For this purpose you must use all the articles in that category which you sold in the base period without regard to whether they are presently being manufactured. If you are establishing a ceiling price for sale at retail of a new article, you must include in your comparison group of articles only those articles in the same category which were dealt in at retail during the base period. If you are establishing a ceiling price for a non-retail sale of a new article, you must include in that group only those articles in the same category which were dealt in at non-retail during the base period.

(b) You then determine in accordance with section 7, for each article found in paragraph (a) of this section, the base period selling price to your largest buying class of purchaser.

(c) Group all the articles found in paragraph (a) of this section so that each group will include all the articles which were sold at the same base period selling price. If you customarily deal in selling price lines, you will be including in each group all the styles of articles which were sold in the same price line during the base period. If you do not deal in price lines, but price each article individually, you may have only a single article which was sold at a particular base period price. In such case, the single article sold at a particular price will constitute a group of articles as that term is used in this section.

(d) From each group of articles sold at the same base period selling price, as found in paragraph (c) of this section, you must select the fewest number of articles which accounted for 50 percent of the total dollar volume of sales or production during the base period of all the articles included in that group. The group of articles so selected constitutes a "comparison group of articles." For the purpose of selecting the articles constituting 50 percent of the dollar volume of sales or production at each base period selling price, you shall apply the method described in section 14.

(e) For pricing a new article which you now manufacture, you select as the comparison group of articles, that comparison group of articles, as found in paragraph (d) of this section, whose average terminal direct cost is the same as or next lower than the terminal unit direct cost of the article being priced. If you had no comparison group of articles whose average terminal direct cost is the same as or lower than the terminal unit direct cost of the new article, use as the comparison group of articles the comparison group of articles whose average terminal direct cost is next higher than the terminal unit direct cost of the new article.

SEC. 26. *How to find the average percentage markup of the comparison group of articles.* As described in section 23 of this regulation, the ceiling price of a new article is determined by applying to the terminal unit direct cost of that article the percentage markup which the average ceiling price of the comparison group of articles, selected in accordance with section 25 (e), yields over the average terminal direct cost of that comparison group. The following instructions explain how to determine that percentage markup:

(a) (1) Find the average ceiling price for the articles in the comparison group of articles selected. To do this you determine the ceiling price of each such article, in the manner provided under section 4. You then total these ceiling prices and divide the sum by the number of articles in the comparison group selected. The resulting figure is your average ceiling price for the comparison group of articles.

(2) Find the average terminal direct cost of all the articles included in the comparison group of articles. To do this you must first find the terminal unit direct cost of each article included in the comparison group of articles. (You will have determined the terminal unit direct cost of each article in arriving at your ceiling price under subparagraph (1) of this paragraph.) You then total the terminal unit direct cost of each of the articles of the comparison group and divide the sum by the number of articles in that group. The resulting figure is the average terminal direct cost of the comparison group of articles.

(3) To find the average percentage markup of the comparison group of articles, subtract the resulting figure found in subparagraph (2) of this paragraph from the resulting figure found in subparagraph (1) of this paragraph. The difference is the average gross dollar margin over the average terminal direct cost of the comparison group of articles. Divide the average gross dollar margin by the average terminal direct cost. The resulting figure is the percentage markup over the average terminal direct cost of the comparison group of articles.

(b) Whether or not you are presently manufacturing the articles in your comparison group, you must use the full terminal unit direct cost permitted under this regulation, which will include the full amount of the adjustments of direct labor and manufacturing materials permitted under section 4.

SEC. 27. *Ceiling price.* (a) To find your ceiling price, apply the percentage markup found in paragraph (a) (3) of section 26 of this regulation to the terminal unit direct cost of the article you are pricing. This is your ceiling price for sale of that article to your largest buying class of purchaser.

(b) Your ceiling price for sale of the article to your largest buying class of purchaser must be consistent in every respect with the base period price of that article in the comparison group of articles, whose ceiling price is nearest to the ceiling price of the new article; i. e., the ceiling price of the new article must carry the same delivery terms, cash, trade and volume discounts, allowances, premiums and extras, deductions, guarantees, servicing terms, and other terms and conditions of sale.

(c) Your ceiling price to your other classes of purchasers is determined by applying your price differentials used pursuant to section 4 (c) for that article, in the selected comparison group of articles, whose ceiling price is nearest to the ceiling price of the new article.

SEC. 28. *Record of ceiling price.* (a) Before you sell an article for which you have determined the ceiling price in accordance with section 27, you must prepare and preserve work sheets showing your calculation of the ceiling price of that article. On or before the mandatory effective date of this regulation, you must prepare a separate record for each category in the form prescribed in Exhibit 3 (Appendix B) showing the required information for each article in that category for which you have established a ceiling price under section 27. On and after the mandatory effective date of this regulation, you may not continue to offer for sale or continue to deliver any article whose ceiling price is determined in accordance with section 27 unless and until a record in the form prescribed in Exhibit 3 covering that article has been prepared. In the case of an article whose ceiling price is determined under section 27 and which is first offered for sale after the mandatory effective date of this regulation, you shall prepare, in the same manner, a separate record in the form prescribed in Exhibit 3 for such article within fifteen days after the article is first offered for sale, or before delivery, whichever date is earlier.

(b) *Record of comparison groups of articles.* In order to enable you to make a proper selection of a comparison group of articles as provided in section 25 (e), you must first calculate the average terminal direct cost, the average ceiling price, and the average percentage markup of each comparison group of articles. You may initially make these calculations on work sheets. However, on or before the mandatory effective date of this regulation, you must prepare a separate record for each category in the form prescribed in Exhibit 2 (Appendix B) including the required information for all the base period selling prices in each such category as found in accordance with section 25 (b). In completing this record, the groups of articles which you have established must be listed in ascending order of their average terminal direct cost starting with the lowest average terminal cost at the top of the list. It may be noted that after this chart has been completed for a category, you may then price each new article in that category by reference to the average terminal direct costs appearing on the chart.

SEC. 29. *Ceiling price for a new article which, except for the basic component material of which it is manufactured, would fall within a category dealt in during the base period.* (a) This section explains how to determine the ceiling price of an article which you are now manufacturing of a basic material which is different from any material used for the manufacture of similar articles during the year July 1, 1949 to June 24, 1950, but which article, except for the difference in basic component material, would fall within a category in which you dealt during that year.

Example: The only basic material you used for the manufacture of children's fall dresses in the year July 1, 1949 to June 24, 1950, was rayon. You have therefore established a category for children's fall rayon dresses under this regulation. You now propose to manufacture children's fall dresses made of wool fabric, and may or may not continue to manufacture rayon dresses. Your ceiling price for the wool dresses must be determined under this section.

(b) *Determination of ceiling price.* You will determine your ceiling price for the article manufactured of the new basic component material by reference to a comparison group of articles in the category in which you dealt in the base period and in which the new article would fall, except for the difference in the basic component material. If you are establishing a ceiling price for sale at retail of a new article, you must include in your comparison group of articles only those articles in the same category which were dealt in at retail during the base period. If you are establishing a ceiling price for a non-retail sale of a new article, you must include in that group only those articles in the same category which were dealt in at non-retail during the base period.

If you have established more than one category in which the new article might be included, except for its basic material component, you must use that category in which you had the greater dollar volume of sales during the base period for the respective category. The category so selected is your comparison category. You determine your ceiling price for the new article in the following manner:

(1) Find what the total direct labor cost and manufacturing materials cost of the new article would have been on the base period prescribed date of the comparison category. This will give you your "computed" base period direct cost of the new article. In making your calculation of the manufacturing materials cost as of the base period prescribed date you must conform to the instructions in sections 12 (a) and 15. Your direct labor cost shall be computed in accordance with the instructions in section 9.

(2) Find your comparison group of articles in the comparison category. To do this you must use the following method:

(i) Determine in accordance with section 7, the base period selling price to your largest buying class of purchaser for each article in the comparison category.

(ii) Group all the articles found in subdivision (i) of this subparagraph so that each group will include all the articles which were sold at the same base period selling price. If you customarily deal in selling price lines, you will be including in each group all the styles of articles which were sold in the same price line during the base period. If you did not deal in price lines, but price each article individually, you may have only a single article which was sold at a particular base period price. In such case, the single article sold at a particular price will constitute a group of articles as that term is used in this section.

(iii) From each group of articles sold at the same base period selling price, as found in subdivision (ii) of this subparagraph, you must select the fewest number of articles which accounted for 50 percent of the total dollar volume of sales or production during the base period of all the articles included in that group. The group of articles so selected constitutes a "comparison group of articles." For the purpose of selecting the articles constituting 50 percent of the dollar volume of sales or production at each base period selling price, you shall apply the method described in section 14.

(3) Next determine your average base period direct labor and manufacturing materials cost of each comparison group of articles in the comparison category, and find the comparison group of articles in the comparison category whose average direct labor and manufacturing materials cost on the base period prescribed date was the same or next lower than the computed direct labor and manufacturing materials cost on the base period prescribed date, as found in subparagraph (1) of this paragraph, of the new article. If you had no comparison group of articles whose direct labor and manufacturing materials cost as of the base period prescribed date was the same or lower than the computed direct labor and manufacturing materials cost of the new article as of the base period prescribed date, then select the comparison group of articles whose average base period prescribed date direct labor and manufacturing materials cost was next higher.

(4) You must then determine what the base period selling price of the new article to your largest buying class of purchaser, as defined in section 6, would have been, in the following manner: For the comparison group of articles selected under subparagraph (2) of this paragraph, find the percentage markup which the base period selling price of the comparison group yielded over its average base period direct cost. You then apply that percentage markup to the computed direct labor and manufacturing materials cost, as of the base

period prescribed date, of the new article. This will give you its base period dollar margin. Add this figure to the computed direct labor and manufacturing materials cost of the new article as of the base period prescribed date. The result is your computed base period price for the new article to your largest buying class of purchaser.

(5) To the computed base period price, add the adjustments permitted under section 4, in the same manner as if the new article had been manufactured in the base period. The resulting amount is your ceiling price for the new article to your largest buying class of purchaser. This ceiling price must be consistent in every respect with the base period price of that article in the comparison group of articles, whose ceiling price is nearest to the ceiling price, found under this section, of the new article; i. e., the ceiling price of the new article must carry the same delivery terms, cash, trade, and volume discounts, allowances, premiums and extras, deductions, guarantees, servicing terms and other terms and conditions of sale.

(c) Your ceiling price for sale of the article to your other classes of purchaser is determined by applying your price differentials used pursuant to section 4 (c), for that article in your selected comparison group whose ceiling price is nearest to the ceiling price, found under this section, of the new article.

(d) Before selling an article for which you have determined the ceiling price in accordance with this section, you must prepare a record in the general form prescribed in Exhibit 1 covering that article. The form prescribed in Exhibit 1 may be adapted to show the calculations required to be made under this section.

NEW CATEGORIES, NEW CLASSES OF PURCHASERS, AND NEW SELLERS

SEC. 30. *Ceiling prices for articles in new categories, and for new sellers.*

(a) Except as provided in section 29 of this regulation, if you are pricing an article which is in a different category from any dealt in by you between July 1, 1949 and June 24, 1950, or if you are a new seller, i. e., if you made no sales of any article covered by this regulation prior to April 2, 1950, your ceiling price for such article may be the same as or lower than the ceiling price of your most closely competitive seller of the same class selling the same article to the same class of purchaser. A ceiling price so determined must be in line with the level of ceiling prices otherwise established by this regulation.

An article otherwise in the same category as one dealt in by you between July 1, 1949 and June 24, 1950, shall nevertheless be considered to be in a different category, if

(1) You wish to sell it at retail, and no articles in the same category which you dealt in between those dates were dealt in at retail;

(2) You wish to sell it at non-retail, and no articles in the same category which you dealt in between those dates were dealt in at non-retail.

You shall consider yourself a new seller of an article if

(1) You wish to sell it at retail, and none of the articles covered by this regulation were dealt in by you at retail prior to April 2, 1950;

(2) You wish to sell it at non-retail, and none of the articles covered by this regulation were dealt in by you at non-retail prior to April 2, 1950.

An article shall be considered the same as an article manufactured by the competitive seller if both articles satisfy all of the following conditions:

(1) Both articles would be included by you in the same category;

(2) The direct labor cost and manufacturing materials cost of both articles are substantially the same;

(3) The quality and quantity of the principal material of which both articles are made are substantially the same;

(4) If you were to sell both articles they would be sold at the same price under the same conditions.

(b) Before selling any article for which you have determined a ceiling price under this section, you must file the report required by paragraph (c) with the Office of Price Stabilization, Apparel Branch, Washington 25, D. C., by registered mail, return receipt requested, and, in addition, you may not sell the article until fifteen days after mailing your report; thereafter you may sell the article at your proposed ceiling price unless and until notified by the Director of Price Stabilization that your proposed ceiling price has been disapproved or that more information is required. If more information is required, you may not sell the article at the proposed ceiling price until fifteen days after such information has been furnished to the Director of Price Stabilization, by registered mail, return receipt requested.

(c) *Required report.* Your report shall state: the name and address of your company; the new category in which the article falls and the most comparable categories dealt in by you during the base period; the name, address and type of business of your most closely competitive seller of the same class and of at least two other closely competitive sellers of the same class; a statement of the ceiling price, or if that is not available, then the selling price for that article and differentials of your most closely competitive seller to each of his classes of purchasers; your reasons for selecting him as your most closely competitive seller; a statement of your customary price differentials; your proposed ceiling price; the specifications of the article you are pricing; the manufacturing process involved; a detailed breakdown of your unit direct costs; the types of customers to whom you will be selling; your proposed differentials; and, if you are starting a new business, a statement whether you or the principal owner of your business are now or during the past twelve months have been engaged in any capacity in any branch of the apparel business at any other establishment, and, if so, the name and address of each such establishment.

SEC. 31. *New classes of purchasers.* (a) If you are pricing an article which you propose to sell to an entirely new class of purchaser (a class of purchaser to which you did not sell between July 1, 1949, and June 24, 1950), you apply to your ceiling price for your largest buying class of purchaser the differential applied by your most closely competitive seller of the same class selling articles in the same category to your new class of purchaser. A ceiling price so determined by applying such differential must be in line with the level of ceiling prices otherwise established by this regulation.

If you did not make sales at retail between July 1, 1949 and April 2, 1950, and you now wish to make sales at retail, you may not establish your prices for such retail sales under this section; you must establish them under section 30.

(b) Before selling any article to a new class of purchaser at a price determined in accordance with paragraph (a) of this section, you must file the report required by paragraph (c) of this section with the Office of Price Stabilization, Apparel Branch, Washington 25, D. C., by registered mail, return receipt requested. In addition, you may not sell the article to the new class of purchaser at a price in excess of the ceiling price to a class of purchaser to whom you sold prior to the effective date of this regulation until thirty days after mailing your report; thereafter you may sell the article at your proposed ceiling price unless and until notified by the Director of Price Stabilization that your proposed ceiling price has been disapproved or that more information is required. If more information is required, you may not sell the article at the proposed ceiling price until thirty days after such information has been furnished to the Office of Price Stabilization, Washington 25, D. C., by registered mail, return receipt requested.

(c) *Required report.* Your report of a differential determined in accordance with paragraph (b) of this section shall state the name and address of your company; the name, address and type of business of your most closely competitive seller of the same class and of at least two other closely competitive sellers; a statement of the differentials of your most closely competitive seller to each of his classes of purchasers for the same categories of articles which you are pricing; your reasons for selecting him as your most closely competitive seller of the same class; a statement of your customary price differentials to the classes of purchasers to whom you sold in the base period; a description of the new class of purchaser to whom you propose to sell; and a description of the categories of articles which you propose to sell to such new class of purchaser.

SEC. 32. *Sellers who cannot price under other sections.* If you claim that you are unable to determine your ceiling price for an article under any of the foregoing provisions of this regulation, you may apply in writing to the Director of Price Stabilization, Washington 25, D. C., for the establishment of a ceiling price. This application shall contain an explanation of why you are unable to determine your ceiling price under any other provision of this regulation; all pertinent information describing the article, and the nature of your business;

your proposed ceiling price and the method used by you to determine it, with detailed breakdown of your unit direct costs; and the reason you believe the proposed price is in line with the level of ceiling prices otherwise established by this regulation. You may not sell the article until the Director of Price Stabilization notifies you, in writing, of your ceiling price.

SEC. 33. *Option to propose an alternative method for obtaining your ceiling price.* (a) If you believe that your situation makes desirable the use of a pricing method different from any prescribed in this regulation you may propose such alternative method in the manner specified in paragraph (b) of this section. Your proposed method must take account of the same factors as the methods prescribed in this regulation and must achieve the same basic results.

(b) You should submit a statement of your proposed method in writing to the Director of Price Stabilization, Washington 25, D. C., stating the reasons why you believe it to be appropriate and why you consider the use of any of the methods prescribed in this regulation to be impracticable, and setting forth in detail each of the steps to be taken under the method you propose. Unless and until the Director of Price Stabilization approves in writing your proposed method, you may not use it.

ROUNDING CEILING PRICES

SEC. 34. *General instructions.* You may use one of the following methods for rounding ceiling prices for each category. Whichever method you use for a category must be used consistently for each of your articles within that category. If you elect to round your prices under section 35 or 36, you must indicate that fact on the report which you are required to file under section 3 of this regulation. If you do not so indicate, you will be deemed to have elected not to round your ceiling prices.

SEC. 35. *Rounding ceiling prices to nearest cent or fraction of cent at which you normally sell.* You may round your ceiling prices determined under this regulation so that they will be expressed to the nearest cent or fraction of a cent which you normally employ. If you elect to round the ceiling price of an article in accordance with this section, you must similarly round the ceiling prices for all of your articles in the same category normally priced by you upon the same basis, to reflect decreases as well as increases. In no event may the increase be greater than one percent of your ceiling price prior to rounding. For example, if you normally quote a price to the nearest quarter of a dollar and your calculated ceiling price for Article A is $8.68 per unit, you may round that ceiling price to $8.75 per unit. However, if your calculated ceiling price for Article B in the same category is $8.82, you must round its ceiling price to $8.75.

SEC. 36. *Rounding price to customary industry price line.* If you sell articles customarily merchandised in price lines you may round your ceiling prices for such articles up to the nearest customary industry selling price line but not by more than 10 percent in excess of your ceiling price prior to rounding, subject to the following conditions:

(a) If you round your ceiling price for an article to a higher selling price you must round the ceiling prices of other articles to prices below their ceiling prices, so that at the end of the rounding period the total dollar amount of your upward adjustments shall not exceed the total dollar amount of your downward adjustments based upon the total sales of all articles whose prices have been rounded under this section. The rounding periods are defined in section 53.

(b) Within fifteen days after the end of each rounding period you must prepare a record, in the form prescribed in Exhibit 4 (Appendix B), showing for each category the following information for that rounding period:

(1) Description of category.

(2) Description of each article delivered.

(3) Number of units of each article delivered.

(4) The total calculated net ceiling sales value of each article. (To be obtained by multiplying the total number of units delivered by the calculated net ceiling price prior to rounding.)

(5) The actual dollar total of sales of each article.

(6) Net upward or downward adjustment for the category.

(c) If you rounded ceiling prices in only one category, state that fact on the record prepared in accordance with paragraph (b) of this section. If you rounded prices in more than one category, you must prepare a summary record listing separately the net upward or downward adjustment in each category in which you have rounded prices. This summary record shall reflect the net upward or downward adjustment for all the categories so listed. This record must also be prepared within fifteen days after the end of the rounding period.

(d) If at the end of a rounding period the total of your upward adjustments is in excess of the total of the downward adjustments as calculated under paragraph (c) of this section, you must offset the excess of upward adjustments before the fifteenth day of the second month of the following rounding period. In order to satisfy this requirement, you should maintain a current record of your deliveries and adjustments resulting from rounding ceiling prices from the beginning of the current rounding period, so that you can check your progress in offsetting your excess adjustment.

(e) On or before the last day of the second month of the current rounding period, you must prepare a record in the form prescribed in Exhibit 4 (Appendix B) for each category, showing the information required under paragraphs (b) and (c) of this section, for deliveries between the first day of the current rounding period and the fifteenth day of the second month of such rounding period. From these records you must prepare a summary showing the net upward or downward adjustment for that period. If the net total upward adjustment for the preceding rounding period is not fully offset by the net total of downward adjustments for the period described in this paragraph, you may not deliver an article at a price in excess of its calculated ceiling price after the end of the second month of the current rounding period.

(f) On or before the fifteenth day following the end of the current rounding period, you must prepare the record required under paragraphs (b) and (c), covering your deliveries during that period, together with a statement showing your reconciliation between the result for the current rounding period and the net upward adjustment for the preceding rounding period.

(g) If the net total upward adjustment for a rounding period is fully offset by a net total downward adjustment for the next succeeding period you may resume using the provisions of this section for rounding your ceiling prices. If the net total upward adjustment for a rounding period is not fully offset by a net total downward adjustment for the next succeeding period the amount of such upward adjustment less the net amount of downward adjustment, if any, for the next succeeding period is deemed a charge in excess of your ceiling price and you become liable to the civil and criminal penalties provided in the Defense Production Act of 1950 for that amount. If you cease doing business in all articles covered by this regulation and at that time you have an accumulated net balance of upward adjustments, the amount of such upward adjustments at the time you cease doing business is deemed a charge in excess of your ceiling price, and you similarly become liable to the civil and criminal penalties provided in the Defense Production Act of 1950 for that amount.

(h) A balance of total downward adjustments remaining at the end of a rounding period may not be carried forward to a succeeding rounding period.

MISCELLANEOUS PROVISIONS

SEC. 37. *Retention of GCPR ceiling price where the change in price is less than 1 percent.* If your calculated ceiling price for an article as determined under section 4 of this regulation differs by less than 1 percent from that under the General Ceiling Price Regulation, you may continue to use your GCPR ceiling price. However, you may use this section only if you apply it to the ceiling prices for all your articles within the same category (as determined under section 4 of this regulation) differing by less than 1 percent from the GCPR ceiling price, regardless of whether decreases or increases result. For example, your GCPR ceiling price for article A is $10 and your ceiling price as determined under section 4 of this regulation is $9.95. Your GCPR ceiling price for article B (falling within the same category as article A) is $8 and your ceiling price determined under section 4 of this regulation is $8.05. You may continue to use $10 as your ceiling price for article A, but if you do so, you must continue to use $8 as your ceiling price for article B.

SEC. 38. *Adjustment of ceiling prices quoted on a delivered basis for increase*

in transportation costs. If your base period price was, and therefore your ceiling price is, a delivered price, you may adjust your ceiling price to reflect any increase, between the end of your base period and March 15, 1951, in transportation costs incurred by you (not including warehousing and insurance charges). You may include in this adjustment only increases resulting from transportation charges paid by you to other persons (excluding any person who is an employee, subsidiary or affiliate of yours or of whom you are a subsidiary or affiliate).

This adjustment is made in the following manner:

(a) Where your base period price for the commodity being priced included full transportation costs from point of shipment to point of receipt by the purchaser, you may adjust your ceiling price by the exact amount of the increase in transportation rates to you between such points, charged by the same carrier or class of carrier for the same class of transportation. You may not include increases due to changing the class of carrier (e. g., from water or highway to rail) or to changing your customary method or quantity of shipment.

(b) If your base period price was uniform within defined geographical zones but you maintained an established differential between zones, you may calculate a transportation cost increase adjustment to be applied to the ceiling price for sales to each zone. This calculation is made in the following manner:

(1) Find the average transportation charge paid by you for deliveries of the article being priced to each zone during your last accounting period of not less than three months, ended not later than the end of your base period for that category. If your base period is April 1 through June 24, 1950, you should use your last accounting period of not less than three months, ended not later than June 30, 1950.

(2) Find what the average transportation charge paid by you for deliveries of that article to each zone would be, using the transportation rates actually in effect on March 15, 1951.

(3) The dollars-and-cents amount of the difference between the average transportation charge found under (2) and that found under (1) for each zone may be added to your ceiling price for sales to that zone.

(c) Where your base period price was uniform for all sales of the article being priced to any destination within the United States, you may calculate a single transportation cost increase adjustment to be applied to the ceiling price for all sales within the United States in the same maner as under paragraph (b) of this section, treating the United States as a single zone.

SEC. 39. *Recalculation of ceiling prices.* The Director of Price Stabilization expects, in due course, to issue an amendment to this regulation providing for a recalculation of your ceiling prices under this regulation. The purpose of this recalculation would be to reflect more accurately the materials prices established by other ceiling price regulations.

SEC. 40. *Transfers of business and combinations.* (a) If you purchased or otherwise acquired by transfer after June 24, 1950, or shall hereafter acquire, the principal part of the business, assets or stock in trade of an established business, and you carry on the business of the transferor or continue to deal in the same categories of articles in an establishment separate from any other establishment previously owned or operated by you, your ceiling prices shall be the same as those to which your transferor would be subject if no such transfer had taken place, except as provided in paragraphs (b) and (e) of this section, and your obligation to keep records sufficient to verify such prices shall be the same. You must further prepare and preserve (if your transferor has not already done so) the records, reports and work sheets required under this regulation. Your transferor shall preserve and make available or turn over to you all records necessary to verify your ceiling prices and to enable you to comply with the record-keeping provisions of this regulation.

(b) The provisions of paragraph (a) of this section shall not apply to categories of articles whose ceiling prices were determined under section 30 or were established under section 32 of this regulation. In that event you must determine your ceiling prices for such categories of articles in accordance with section 30 or 32 of this regulation.

(c) If the transfer of business occurred between July 1, 1949 and June 24, 1950, your ceiling prices shall be determined on the basis of a consolidation of your records with those of your transferor for the period from July 1, 1949 to June 24, 1950.

(d) If two or more manufacturers who were in business during any part of the period July 1, 1949 to June 24, 1950, merge or consolidate after July 1, 1949, the ceiling prices of the manufacturer resulting from such merger or consolidation shall be determined on the basis of consolidated records of the manufacturers involved in the merger or consolidation.

(e) You may not avail yourself of ceiling prices under the provisions of this section unless the records required under this regulation to support such prices are either turned over or made available to you by the transferor or the manufacturers involved in the merger or consolidation.

SEC. 41. *Excise, sales and other similar taxes.* (a) *Where the tax is included in your base period price.* If the base period price you are using for an article to determine your ceiling price either for that article or another article includes any excise, sales or other similar tax which is not separately stated, you must first ascertain the amount of any such tax and exclude it from your base period price. Your base period price, with any such tax so excluded, may then be used in making any appropriate computations for determining your ceiling price. After completing the computations, you may then add the appropriate amount of any such tax for inclusion as part of your ceiling price. In the case of any increase in such a tax subsequent to the end of your base period, you may include the appropriate amount of any such increase as part of your ceiling price. Likewise, in the case of any similar tax first imposed subsequent to the end of your base period and included in your selling price thereafter, you may include the appropriate amount of such tax as part of your ceiling price.

(b) *Where the tax is separately stated and collected.* In addition to your ceiling price determined under this regulation, you may collect the amount of any excise, sales or other similar tax paid by you as such only if it has been your practice to state and collect such taxes separately from your selling price for the same or similar articles. In the case of such a tax imposed by law which is not effective until after the effective date of this regulation, or of any increase in such a tax subsequent to the effective date of this regulation, you may collect the amount of the tax actually paid as such by you, if not prohibited by the tax law. You must in all such cases state separately the amount of the tax.

SEC. 42. *Modification of ceiling prices by the Director of Price Stabilization.* The Director of Price Stabilization may at any time disapprove or revise downward ceiling prices proposed to be used or being used under this regulation so as to bring them into line with the level of ceiling prices otherwise established by this regulation.

SEC. 43. *Adjustable pricing.* Nothing in this regulation shall be construed to prohibit your making a contract or offer to sell an article at (a) the ceiling price in effect at the time of delivery or (b) the lower of a fixed price or the ceiling price in effect at the time of delivery. You may not, however, deliver or agree to deliver an article at a price to be adjusted upward in accordance with any increase in a ceiling price after delivery.

SEC. 44. *Petitions for amendment.* If you wish to have this regulation amended, you may file a petition for amendment in accordance with the provisions of Price Procedural Regulation 1 (15 F. R. 9055).

SEC. 45. *Supplementary regulations.* The Director of Price Stabilization may issue supplementary regulations modifying or implementing this regulation as he deems appropriate.

SEC. 46. *Temporary adjustments to carry out existing contracts.* (a) *Who may apply for adjustment.* If at any time prior to the issuance date of this regulation, you entered into a bona fide contract for delivery of an article at a firm price subsequent to the effective date of this regulation, and if your ceiling price as determined under this regulation is lower than the contract price, you may apply to the Director of Price Stabilization for an adjustment of your ceiling price, provided:

(1) The contract for future delivery was required by seasonal demands or normal business practices.

(2) The contract, if entered into subsequent to January 26, 1951, called for deliveries at a price which was lawful under ceiling price regulations in effect at that time.

(3) You acquired needed raw materials or component parts after the date of the contract at lawful prices in reliance upon and in order to fulfill the terms of the contract.

(b) *Calculation of the amount of the adjustment.* The adjusted ceiling price will be fixed in the following way:

(1) Take the total price of the quantity of raw materials or component parts acquired in reliance upon, and necessary in order to fulfill, the contract.

(2) Compute what the total price of the same quantity of raw materials or component parts would be as of the terminal prescribed date used for your calculation of "the manufacturing materials cost adjustment." In computing what that total price would be, apply the provisions of section 16.

(3) Subtract the figure arrived at under subparagraph (2) from the figure arrived at under subparagraph (1). The result is the total amount of the adjustment. If the figure arrived at under subparagraph (1) is no higher than that arrived at under subparagraph (2), you cannot apply for adjustment under this section.

(4) Divide the total amount of the adjustment by the number of units of the article called for by the contract. This gives you the adjustment per unit of the article. If the contract calls for the delivery of more than one article, the total amount of the adjustment may be distributed in any appropriate way among the several articles.

(5) Add the adjustment per unit of the article under (4) to your ceiling price for that article. The result is your adjusted ceiling price. In no event, however, may you obtain an adjusted ceiling price higher than the contract price.

Example: You contracted in January 1951 to supply a mail order house 1,000 units of an article at $10.00 per unit, delivery to be made during the months of June, July and August of 1951. Your ceiling price under this regulation is $9.00. In order to comply with the terms of your contract, you purchased raw material sufficient to produce 600 units at a total cost of $4,200. The cost of acquiring the same raw material as of June 4, 1951 would be $3,500. The total adjustment is $700 ($4,200 minus $3,500 equals $700). The total number of units called for in the contract was 1,000. Divide $700 by 1,000. This gives you 70¢. The adjustment per article becomes 70¢ and your adjusted ceiling price for the contract $9.70. Subsequent sales to the contract purchaser and all sales to other purchasers must be at the regular ceiling price of $9.00.

(c) *What your application must contain.* Applications for adjustment under this section must be filed within fifteen days after the mandatory effective date of this regulation with the Director of Price Stabilization, Washington 25, D. C. Attached to the application should be the following:

1. A copy of the contract;
2. Copies of invoices covering the manufacturing materials acquired in reliance upon and in order to fulfill the contract;
3. Copies of invoices or other supporting data which indicate your net cost, as of the terminal prescribed date, used in computing "the manufacturing materials cost adjustment";
4. A copy of the worksheets used in the calculation of your ceiling price;
5. A report of your adjusted ceiling price and detailed calculation showing how this price was arrived at.

(d) *Action on your application.* You may not receive payment of any amount in excess of your ceiling price until 30 days after receipt by the Director of Price Stabilization of any application filed under this section. If the Director of Price Stabilization does not revise or modify the adjusted ceiling price reported by you or notify you that further information is required, you may after these 30 days have elapsed, receive payments at the adjusted ceiling price for all deliveries made since the date of filing. The Director may, however, at any time, revise or modify the adjusted ceiling price, but such revision or modification will not apply to deliveries already made.

SEC. 47. *Records.* (a) With respect to any article covered by this regulation, the provisions of section 16 of the General Ceiling Price Regulation are hereby continued in effect insofar as they apply to the preparation and preservation of "base period records" and such "current records" as have been made as a result of sales between January 26, 1951, and the effective date of this regulation.[1]

(b) You shall prepare and preserve for the life of the Defense Production Act of 1950 and for two years thereafter all records necessary for calculation of your ceiling prices, including (but not limited to) records showing base period prices and material and labor costs, records showing costs, prices and sales for the other applicable periods and dates referred to in this regulation, and the work sheets and records corresponding to Exhibits 1 through 7 in Appendix B of this regulation. The work sheets and records corresponding to Exhibits 1 through 7 must be dated and signed by you or your authorized representative as of the date of their preparation.

(c) You may not establish a ceiling price or any adjustment permitted under this regulation unless you have written records in your possession supporting such price or adjustment and have prepared work sheets showing your calculations before selling an article.

(d) You shall preserve for a period of two years all records showing the prices at which sales of articles subject to this regulation have been made.

(e) All records required under this section must be made available for inspection by or submitted, on request, to the Office of Price Stabilization.

SEC. 48. *Exemptions and exceptions.* This regulation shall not apply to the following:

(a) Sales of articles the ceiling prices of which are now or may subsequently be established by numbered price regulations of the Office of Price Stabilization.

(b) Sales of articles the ceiling prices of which may be subsequently established by "supplementary regulations" to this regulation, to the extent that such "supplementary regulations" may alter or modify the terms of this regulation.

(c) Sales of articles the ceiling prices of which are now or may subsequently be exempted from price control under the terms of any General Overriding Regulation of the Office of Price Stabilization.

(d) Sales of articles exempt from the ceiling price provisions of the General Ceiling Price Regulation under sections 5, 7, 8 and 9 of Supplementary Regulation 1 to the General Ceiling Price Regulation (Defense Agency Pricing).

(e) Indian and Eskimo handicraft articles which are produced by the manual skill of American Indians, Alaskan Indians or Eskimos.

(f) Sales or deliveries of articles made or produced by the seller at his home solely for his own account, without the assistance of hired employees.

SEC. 49. *Prohibitions.* (a) On and after the effective date of this regulation, regardless of any contract or other obligation:

(1) You may not sell or deliver any article covered by this regulation at a price higher than your ceiling price.

(2) No person in the course of trade or business may buy or receive any article covered by this regulation at a price higher than its ceiling price.

(3) No person shall offer, solicit, attempt or agree to do any of the foregoing. Of course, you may charge lower prices than your ceiling prices at any time.

(b) *Redetermination of ceiling prices.* Once you have recorded or reported your ceiling price or a proposed ceiling price for an article as required by this regula-

---

[1] The portions of the General Ceiling Price Regulation here referred to, applicable to apparel manufacturers, are as follows:

SEC. 16. * * * (a) *Base period records.* (1) You must preserve and keep available for examination by the Director of Price Stabilization those records in your possession showing the prices charged by you for the commodities or services which you delivered or offered to deliver during the base period. * * *

(2) In addition, on or before March 22, 1951, you must prepare and preserve a statement showing the categories of commodities in which you made deliveries and offers for delivery during the base period: * * *

(3) On or before March 22, 1951, you must also prepare and preserve a ceiling price list, showing the commodities in each category (listing each model, type, style, and kind), or the services, delivered or offered for delivery by you during the base period together with a description or identification of each such commodity or service and a statement of the ceiling price. Your ceiling price list may refer to an attached price list or catalogue. * * *

(4) You must also prepare and preserve a statement of your customary price differentials for terms and conditions of sale and classes of purchasers, which you had in effect during the base period. * * *

(b) *Current records.* If you sell commodities or services covered by this regulation you must prepare and keep available for examination by the Director of Price Stabilization for a period of two years, records of the kind which you customarily keep showing the prices which you charge for the commodities or services. In addition, you must prepare and preserve records indicating clearly the basis upon which you have determined the ceiling price for any commodities or services not delivered by you or offered for delivery during the base period. * * *

"Base period" as used in section 16 of the General Ceiling Price Regulation means December 19, 1950 to January 25, 1951.

tion, you may not thereafter redetermine such price except as provided in section 39. A purely mathematical error may, however, be corrected provided that the correction must be reported to the Office of Price Stabilization, Apparel Branch, Washington 25, D. C., by registered mail, return receipt requested.

SEC. 50. *Resale of manufacturing materials.* (a) Except as provided in paragraph (b) of this section, this paragraph applies in those instances where you have purchased manufacturing materials of types used by you in the manufacture of articles covered by this regulation and subsequently resell such materials in the same form in which they were acquired, either to another manufacturer or any other person. Notwithstanding the provisions of the General Ceiling Price Regulation or any other price regulation which may be applicable to such sales, you may not sell such manufacturing materials at a price in excess of their net cost to you plus freight, insurance, warehouse and handling charges actually incurred and paid by you.

(b) This section shall not apply in the following cases:

(1) Where such resale is made pursuant to an established trade practice by which you are expected, in connection with the sale of articles manufactured by you, to furnish to the purchasers of such articles an additional quantity of material identical with the material from which such articles are manufactured.

(2) Where, as a separate and substantial part of your business on the issuance date of this regulation, you were regularly engaged in reselling materials purchased exclusively for the purpose of resale and not for use in the manufacture of articles.

SEC. 51. *Evasion.* Any practice which results in obtaining indirectly a higher price than is permitted by this regulation is a violation of this regulation. Such practices include, but are not limited to, devices making use of commissions, services, finders' fees, cross sales, transportation arrangements, premiums, discounts, special privileges, tie-in agreements and trade understandings.

SEC. 52. *Penalties.* Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions and suits for treble damages provided for by the Defense Production Act of 1950.

SEC. 53. *Definitions and explanations.*

Article. This term is defined in section 6.

Category. This term is defined in section 6.

Class of purchaser or purchaser of the same class. Class of purchaser is determined in the first instance by reference to your own practice of setting different prices for non-retail sales to different purchasers or groups of purchasers, and to your own practice of setting different prices for retail sales to different purchasers or groups of purchasers. The practice may (but need not) be based on the characteristics or distributive level of the purchaser (for instance, wholesaler, individual retail store, retail chain, mail order house, government agency, public institution). It may (but need not) be based on the location of the purchaser or the quantity purchased by him. If you have followed the practice of giving an individual customer a price differing from that charged others, that customer is a separate class of purchaser.

If in your industry a practice prevails of charging different prices for sales to groups of purchasers based on their characteristics or distributive level, any such group to whom you did not make sales during your base period *and* for whom you did not have a customary differential in effect during or before your base period, is a separate class of purchaser as to you.

Delivered. An article shall be deemed to have been delivered if it was received by the purchaser or by any carrier, including a carrier owned or controlled by the seller, for shipment to the purchaser.

Director of Price Stabilization. This term also applies to any official (including officials of Regional or District Offices) to whom the Director of Price Stabilization by order delegates a function, power or authority referred to in this regulation.

Fringe benefits. Fringe benefits include health, welfare and insurance plans, pension contributions for current work, paid vacations, paid holidays and similar benefits, including payments required under the Federal Insurance Contributions Act, the Federal Unemployment Tax Act and any state or local unemployment or compensation laws. It does not include make-up pay.

Largest buying class of purchaser. This term is defined in section 6.

Make-up pay. This term refers to any sum you must pay because the hourly, daily, or weekly earnings of the pieceworker at the piecework rate fall below the minimum wage you are obliged to pay that worker by law or by contract.

Manufacturer. This term means any one of the following:

(1) Any person who fabricates an article for his own account from materials owned by him;

(2) Any person who sells to a fabricator any of the principal materials from which an article is fabricated for his own account and who sells that article other than at retail;

(3) Any person who furnishes or consigns to a fabricator any of the principal materials he owns from which an article is fabricated for his own account;

(4) Any person, (i) whose business is directly or indirectly under the same ownership and control as the person who fabricates an article, and (ii) who deals in that article other than at retail or further processes or fabricates it.

Fabricating means substantially changing the form of some commodity or commodities, combining of two or more commodities into a different one, or the creating of a new commodity from existing ones. Mere packaging, labeling, marketing, promoting, selling, or combining articles without substantially changing their form does not constitute fabrication. If you merely perform an industrial service (e. g., contract sewing) for the account of others, on a commodity, you are not a manufacturer with respect to the resulting article.

Manufacturing materials. This term is defined in section 11.

Most closely competitive seller of the same class. Your most closely competitive seller of the same class is the seller with whom you are in most direct competition. You are in direct competition with another seller who sells the same type of articles to the same classes of purchasers in similar quantities on similar terms and with approximately the same amount of service.

Net cost or net price. Each of these terms refers to the net invoice cost or net price to you of a manufacturing material after deducting any discount (other than a customary cash discount) or allowance you took or could have taken. You may include charges for freight and specific taxes allocable to the material and transportation. You may not include charges for insurance, storage or warehousing.

Person. This term includes any individual, corporation, partnership, association or any other organized group of persons, or legal successors or representatives of the foregoing, and the United States or any other Government or its political subdivisions or agencies.

Records. This term means books of original entry, books of account, sales lists, sales slips, orders, vouchers, contracts, receipts, invoices, bills of lading, bank statements, cancelled checks and check stub books, and other papers and documents.

Rounding period. As used in this regulation, this term means a calendar quarter of three consecutive months beginning January 1, April 1, July 1 and October 1 of each year, except that the first rounding period shall start when you begin pricing under this regulation and shall end on September 30, 1951.

Sales at retail. This term refers to any sale by you to an ultimate consumer, including a commercial, industrial or institutional user, but not including a governmental user, of any article covered by this regulation of which you are the manufacturer. The term "retail" shall be similarly construed. As to any article of which you are not the manufacturer, but which you buy and then re-sell at retail in substantially the same form, you are not covered by this regulation.

Sell. This term includes sell, supply, dispose, barter, exchange, transfer and deliver, and contracts and offers to do any of the foregoing. The terms "buy" and "purchase" shall be construed accordingly.

Written offer or written offer for sale. Each of these terms refers to an offer for sale made by means of the seller's price list or, if he had no price list, a written offer otherwise made in the seller's customary manner. The term does not include an offer at a price intended to withhold a commodity from the market or used as a bargaining price by a seller who usually sells at a price lower than his asking price.

You. "You" means the person subject to this regulation. "Your" and "Yours" are construed accordingly.

Effective date. The mandatory effective date of this regulation is postponed until further action by the Director of Price Stabilization. However, you may elect to make this regulation effective as to you at any time between June 14, 1951, and the mandatory effective date, in accordance with paragraph (a) of section 3 of this regulation.

NOTE: The record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

SEPTEMBER 11, 1951.

APPENDIX A

EXAMPLES OF ARTICLES COVERED BY THIS REGULATION

(1) Men's, boys', women's, misses', children's, toddlers' and infants' outerwear, underwear, headwear, hosiery, foundation garments, lounging and leisure wear, bedwear, athletic and special sports apparel, bathing suits and trunks, theatrical and masquerade costumes, ecclesiastical and academic vestments, occupational service apparel, burial clothes, gloves, handbags, pocketbooks, purses, wallets, billfolds, coin purses, money belts, muffs, muff bags, key cases, belts, suspenders, garters, garter belts, hose supporters, arm bands, ear muffs, sun shades, scarfs, mufflers, stoles, separate collars, separate cuffs, neckties, neckwear, handkerchiefs, abdominal supporters, sanitary belts and aprons, infants' bands, bibs, and other articles of a similar nature.

(2) Hat bodies, sewn pockets, brassiere and underwear straps, collar and cuff sets, shoulder pads, shields, waist bands, unassembled garments sold in package form, and other similar manufactured articles.

(3) Booties, spats, slipper-socks, and beach shoes.

EXAMPLES OF ARTICLES NOT COVERED BY THIS REGULATION

Slide fasteners, buttons and other closures, thread, artificial flowers, cuff links, separate belt buckles, tie clips, feathers, diapers, key chains, plumes, umbrellas, parasols, canes, costume jewelry, ribbons, compacts, cigarette cases, barrettes, hair furnishings, hair nets, tobacco pouches, carrying cases, dressing cases, jewelry cases, brief cases and luggage.

APPENDIX B

This appendix contains sample forms of records and worksheets which you will find it necessary to use in making certain calculations required by this regulation and in recording your ceiling prices.

Exhibits 1, 2, 3 and 4 illustrate the form to be used in preparing certain important records required to be prepared and preserved under this regulation. In preparing your records corresponding to these Exhibits you must conform closely to the general arrangement of data as illustrated in these Exhibits. Inasmuch as the Director may from time to time require manufacturers to submit some or all of these records, it is suggested that these records be prepared in duplicate.

Exhibits 5, 6, 7, and 8 are included to illustrate the content and general arrangement of data appropriate for certain calculations required under this regulation.

The forms corresponding to these Exhibits will not be printed or provided by the Office of Price Stabilization. You will therefore be required to prepare forms for your use in completing the records.

You must preserve a copy of all records required under this regulation for your own use, for examination by representatives of the Office of Price Stabilization, and for submittal on request to OPS.

The following is a list of the Exhibits included in this Appendix:

Exhibit 1. Record of Ceiling Prices for Articles of Apparel sold in the Base Period.

Exhibit 2. Category Record—Comparison Groups of Articles of Apparel.

Exhibit 3. Record of Ceiling Prices for New Articles of Apparel in a Base Period Category.

Exhibit 4. Record of Rounding Prices of Articles of Apparel.

Exhibit 5. Direct Labor Cost Adjustment Work Sheet.

Exhibit 6. Manufacturing Materials Cost Adjustment Work Sheet (Method 1).

Exhibit 7. Indirect Labor Cost Percentage Work Sheet.

Exhibit 8. Comparison Group Work Sheet—Calculation of Costs and Markup for One Base Period Price.

CPR 45 EXHIBIT 1.—RECORD OF CEILING PRICES FOR ARTICLES OF APPAREL SOLD IN THE BASE PERIOD

1. Name: A. B. C. Shirt Co.
2. Address: 1000 Main Street, Chicago, Ill.
3. Category description: Boys' cotton flannel shirts.
4. Base period: From Oct. 1, 1949 to Dec. 31, 1949.
5. Indirect labor cost percentage: 23.1%.
6. Indirect materials cost percentage: .1%

(List all articles sold in the base period which you are required to price under this regulation)

Identification of article	Base period selling price (net)	Adjustments*				Current calculated ceiling price (net); total of columns (b) through (f)	Rounded ceiling price (net) (sec. 35)
		Direct labor cost	Indirect labor cost	Manufacturing material cost	Indirect material cost		
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
	Dozen						
Style No. 2000	$16.50	$0.36	$0.08	$1.81	$0.02	$18.77	$18.75
Style No. 1075	20.00	.43	.10	2.17	.02	22.72	22.75

(s) RICHARD ROE,
Signature of Owner or Authorized Agent of Firm.

Dated: August 9, 1951.

*To prepare a record of retail ceiling prices for articles sold at retail during the base period, include an additional column entitled "Retail markup on cost adjustments." The figures in column (g) will then represent the total of columns (b) through (f) plus the retail markup on the cost adjustments.

CPR 45 EXHIBIT 2.—CATEGORY RECORD—COMPARISON GROUPS OF ARTICLES OF APPAREL*

1. Name: Z. E. Shirt Company.
2. Address: 500 Broad Street, Los Angeles, Calif.
3. Category Description: Men's cotton shirts.
4. Base period: from Oct. 1, 1949 to Dec. 31, 1949.

Group number [1] (Articles accounting for 50 percent of volume)	Base period selling price	Average base period direct cost	Average terminal direct cost [2]	Indirect labor cost adjustment	Indirect material cost adjustment	Average terminal ceiling price	Average dollar markup ((g) minus (d))	Average percentage markup [3] ((h) divided by (d))
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	Per dozen							
1	$16.50	$12.60	$14.77	$0.30	$0.06	$19.03	$4.26	28.8
2	18.50	14.10	16.33	.34	.07	21.14	4.81	29.5
3	24.00	18.25	20.98	.42	.09	27.24	6.26	29.8
4	30.00	23.46	26.19	.51	.11	33.35	7.16	27.3

*To establish ceiling prices for retail sales of new articles, include in this category record only those articles in the same category which you dealt in at retail during the base period. To establish ceiling prices for non-retail sales of new articles, include in this category record only those articles which you dealt in at non-retail during the base period.

Instructions: Use separate work sheets to make the necessary calculations.

[1] Identify each group of articles in Column (a) by number in consecutive order. This number must be indicated on the work sheets for the corresponding group of articles.

[2] You will compare the terminal unit direct cost of the new article with the figures in Column (d).

[3] After you have found the comparison group of articles by reference to Column (d), you will apply the percentage markup shown in Column (i) corresponding to that group of articles.

(s) JOHN DOE,
Signature of Owner or Authorized Agent of Firm.

Dated: July 17, 1951.

CPR 45 EXHIBIT 3.—RECORD OF CEILING PRICES FOR NEW ARTICLES OF APPAREL IN A BASE PERIOD CATEGORY

1. Name: Z. E. Shirt Company.
2. Address: 500 Broad Street, Los Angeles, Calif.
3. Category description: Men's cotton shirts.
4. Rounding section: 36.

Article identification	Terminal manufacturing material cost	Terminal direct labor cost	Total terminal direct cost	Identification of comparison group of articles and percent mark-up	Calculated ceiling price	Rounded price
Style No. 17	$10.61	$4.52	$15.13	No. 1 28.8	$19.49	$21.00
Style No. 34	15.09	5.89	20.98	No. 3 29.8	27.24	28.50
Style No. 522	19.73	7.81	27.54	No. 4 27.3	35.06	33.00

Dated: July 17, 1951.

(s) JOHN DOE,
Signature of Owner or Authorized Agent of Firm.

CPR 45 EXHIBIT 4.—RECORD OF ROUNDING PRICES OF ARTICLES OF APPAREL

PERIOD: FROM OCT. 1, 1951, TO DEC. 31, 1951

1. Name: XZX Dress Company, Inc.
2. Address: 2000 First Avenue, Boston, Mass.
3. Category: Children's cotton dresses.

(Only articles which have had their ceiling prices adjusted in accordance with Section 36 should be included in this report.)

Article identification (a)	Quantity delivered during reporting period (b)	Calculated net ceiling price (c)	Total value at calculated ceiling price (column (b) times (c)) (d)	Actual selling price (net) (e)	Actual sales value (column (b) times column (e)) (f)
	Dozen	*Dozen*			
Style No. 100	2,500	$33.00	$82,500	$36.00	$90,000
Style No. 200	3,500	24.70	86,450	22.50	78,750
Total			$168,950		$168,750

Net upward adjustment, if any (column (f) minus column (d))	None
Net downward adjustment, if any (column (d) minus column (f))	$200
Carry-over of net upward adjustment from preceding rounding period	$150
Net remaining upward adjustment	None

Dated: January 8, 1952.

(s) RICHARD ROE,
Signature of Owner or Authorized Agent of Firm.

CPR 45 EXHIBIT 5.—DIRECT LABOR COST ADJUSTMENT WORKSHEET

1. Name: ZYX Garment Co.
2. Address: 430 95th Street, St. Louis, Mo.
3. Article: Style 101.
4. Category: Dress shirts.
5. Base period: From Nov. 1, 1949 to Jan. 31, 1950.

Description of operation (a)	Base period piece work rate or time work unit labor cost (b)	Terminal (Mar. 15, 1951) piece work rate or time work unit labor cost (c)
Cutting	$0.50	$0.56
Sewing	4.00	4.40
Trimming	.36	.40
Inspection	.20	.22
Pressing and boxing	.98	1.08
Find separate total of columns (b) and (c)	$6.04	$6.66
Labor cost adjustment: Column (c) minus column (b)	$0.62	

Dated: July 10, 1951.

(s) IRA BERLIN,
Signature of Owner or Authorized Agent of Firm.

CPR 45 EXHIBIT 6.—MANUFACTURING MATERIALS COST ADJUSTMENT (METHOD 1—INDIVIDUAL ARTICLE) WORKSHEET

1. Name: G. Y. A. Dress Company.
2. Address: 2500 First Street, Kansas City, Mo.
3. Article: Style No. 200.
4. Category: Women's cotton dresses.
5. Base period: From Oct. 1, 1949, to Dec. 31, 1949.

Material used (a)	Physical amount of material used in one unit of the article (b)	Cost per unit of material on the first day of the base period (base period prescribed date) (c)	Cost per unit of material on the terminal prescribed date (d)	Change in cost per unit of material (difference between columns (c) and (d)) (e)	Change in cost of material per unit of article (column (b) times column (e)) (f)
80 x 80 print	38 yds per doz	$0.25 per yard	$0.35½ per yard	$0.10½ per yard	$3.99
Belt	12 each per doz	$6.00 per dozen	$8.00 per dozen	$2.00 per dozen	2.00
Buttons	36 each per doz	$2.00 per gross	$2.50 per gross	$.50 per gross	.13
Total					$6.12

Dated: July 16, 1951.

(s) EMILY JONES,
Signature of Owner or Authorized Agent of Firm.

CPR 45 EXHIBIT 7.—INDIRECT LABOR COST PERCENTAGE WORKSHEET

1. Name: AGO Garment Co.
2. Address: 42 Broadway, Phila, Pa.
3. Profit and loss statement for fiscal year: From January 1, 1950 to December 31, 1950.
4. Direct labor costs for year: $109,604.00.
5. Indirect labor costs for year: $25,318.52.
6. Indirect labor cost ratio (line 5 divided by line 4): 23.1 percent.

Dated: July 16, 1951.

(s) JOHN FISHER,
Signature of Owner or Authorized Agent of Firm.

CPR 45—EXHIBIT 8—COMPARISON GROUP WORK SHEET—CALCULATION OF COSTS AND MARKUP FOR ONE BASE PERIOD PRICE*

(The averages on this sheet will be entered on one line on Exhibit 2)

1. Name: Z. E. Shirt Company.
2. Address: 500 Broad Street, Los Angeles, Calif.
3. Category Description: Men's cotton shirts.
4. Base period: From October 1, 1949 to December 31, 1949.
5. Base Period Price Line: $16.50 (Net).

Comparison articles (group No. 1)	Base period direct cost			Direct cost adjustments			Total terminal direct cost	Indirect labor cost adjustment	Indirect materials cost adjustment	Total of all direct and indirect adjustments	Net ceiling price (net base period price plus total of all adjustments)
	Manufacturing materials cost	Direct labor cost	Total direct cost	Manufacturing materials cost adjustment	Direct labor cost adjustment	Total direct cost adjustment					
Style No. 27	$7.50	$5.50	$13.00	$1.80	$0.50	$2.30	$15.30	$0.36	$0.06	$2.72	$16.50+$2.72=$19.22
Style No. 29	6.85	5.45	12.30	1.75	.40	2.15	14.45	.29	.06	2.50	$16.50+$2.50=$19.00
Style No. 31	7.10	5.40	12.50	1.71	.35	2.06	14.56	.25	.06	2.37	$16.50+$2.37=$18.87
Total			37.80			6.51	44.31	.90	.18		57.09
Averages			12.60			2.17	14.77	.30	.06		19.03

Calculation of average percentage markup:

Average net ceiling price	$19.03
Minus average terminal direct cost	14.77
Average dollar markup	$4.26

Average percentage markup on cost: $\frac{(\$4.26)}{(\$14.77)}$=28.8% (Average markup on cost).

Dated: July 17, 1951.

(s) JOHN DOE,
Signature of Owner or Authorized Agent of Firm.

*If you are determining ceiling prices for sales at retail, include in this work sheet only articles which you sold at retail during the base period, and insert an additional column headed "Retail markup on cost adjustments." The figures in the column headed "Net ceiling price" will then represent the net base period price plus the total of all adjustments plus the retail markup on cost adjustments. If you are determining ceiling prices for non-retail sales, include only articles which you sold at non-retail during the base period.

[F. R. Doc. 51-11047; Filed, Sept. 11, 1951; 12:02 p. m.]

Chapter VI—National Production Authority, Department of Commerce

[NPA Order M-45, Schedule 4, as amended September 10, 1951]

M-45—ALLOCATION OF CHEMICALS AND ALLIED PRODUCTS

SCHEDULE 4—PLASTIC TYPE NYLON

This amendment is found necessary and appropriate to promote the national defense and is issued under NPA Order M-45 pursuant to the authority of section 101 of the Defense Production Act of 1950, as amended. In the formulation of this amendment there has been consultation with industry representatives, and consideration has been given to their recommendations. Since there is no trade association in this industry, consultation with trade association representatives was not possible.

This amendment affects Schedule 4 (effective April 20, 1951) of NPA Order M-45, by amending sections 1, 2, 3, 6 and 7 thereof in order to exclude from the Schedule imported level (constant diameter) monofilament material manufactured in foreign countries, Canada excepted; to change plastic type nylon from the classification of an Appendix A to an Appendix B material, including change in NPA forms required because of the change from an Appendix A to an Appendix B material; and to add level monofilament to the small order exemption.

Schedule 4 to NPA Order M-45 is hereby amended to read as follows:

Sec.
1. Definition.
2. General provisions.
3. Filing date and unit of measure.
4. Termination of NPA authorization to use.
5. Limitation on inventory.
6. Certified statement of proposed use.
7. Supplier's application on Form NPAF-47.
8. Communications.

AUTHORITY: Sections 1 to 8 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154.

SECTION 1. *Definition.* "Plastic type nylon" means only the primary form of moldable granules and level and tapered monofilaments of the synthetic polyamide plastic derived from adipic or sebacic acid or both, and does not include scrap, reclaimed material, and fibers normally used in textile yarn or thread. This schedule does not apply to imported level (constant diameter) monofilament manufactured in foreign countries, Canada excepted.

SEC. 2. *General provisions.* Plastic type nylon is hereby made subject to NPA Order M-45 as an Appendix B material. The initial allocation date as an Appendix B material is October 1, 1951. The allocation period is the calendar month. The small order exemptions without use certificates are 540 pounds of granular polymer and 25 pounds of level monofilament, per person, per month. There is no small order exemption for tapered monofilament.

SEC. 3. *Filing date and unit of measure.* The filing date for Form NPAF-47 is the 20th day of the month before the proposed delivery month. The unit of measure is the pound.

SEC. 4. *Termination of NPA authorization to use.* There shall be no limitation of time on any NPA authorization to use plastic type nylon.

SEC. 5. *Limitation on inventory.* The provisions of NPA Reg. 1 shall apply to plastic type nylon.

SEC. 6. *Certified statement of proposed use.* Every person who purchases plastic type nylon from a supplier is required to enter on or attach to each purchase order a certified statement of proposed use as provided in section 7 of NPA Order M-45. DO rating, CMP allotment number, and Government contract number, if any, should be shown. Where more than one end-use is listed for a particular product, a separate quantity should be specified for each such end-use.

SEC. 7. *Supplier's application on Form NPAF-47.* Every supplier of plastic type nylon is required to apply on Form NPAF-47 for authorization to deliver or to use any quantity of plastic type nylon. General instructions on the preparation of Form NPAF-47 are set forth in Appendix D of NPA Order M-45. Each supplier should specify in the space in the heading designated "grade" the physical form of the material as granular, level monofilament, or tapered monofilament. In column (2), each supplier should specify product and end-use, as for example, "bristles for industrial paint brushes," "bushings for textile machinery," and so forth. Where more than one end-use is listed for a particular product a separate quantity should be specified for each such end-use.

SEC. 8. *Communications.* All communications concerning this schedule shall be addressed to the National Production Authority, Washington 25, D. C. Ref. M-45, Schedule 4.

NOTE: All reporting requirements of this schedule have been approved by the Bureau of the Budget, in accordance with the Federal Reports Act of 1942 (5 U. S. C. 139-139F).

This schedule, as amended, shall take effect, except as otherwise provided herein, on September 10, 1951.

NATIONAL PRODUCTION AUTHORITY,
JOHN B. OLVERSON,
Recording Secretary.

[F. R. Doc. 51-11020; Filed, Sept. 10, 1951; 4:45 p. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5804]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

DAVID BERNSTEIN ET AL.

Subpart—*Misrepresenting oneself and goods—Business status, advantages or connections:* § 3.1490 *Nature in general;* § 3.1475 *Location.* Subpart—*Offering unfair, improper and deceptive inducements to purchase or deal;* § 3.2080 *Terms and conditions.* Subpart—*Using misleading name—Vendor:* § 3.2425 *Nature, in general.* In connection with the use of business cards or other written or printed material in carrying on the business of collecting or aiding in collection of debts in commerce, (1) using the words "Business Research", or any other word or words of similar import, to designate, describe or refer to the respondent's business; or otherwise representing, directly or by implication, that the respondent is engaged in research in business or in other forms of research; (2) representing, directly or by implication, that the respondent's said business is other than that of collecting accounts or debts, or that the information sought by means of the respondent's devices is for any purpose other than for use in the collection of accounts or debts; or, (3) representing, for the purpose of misleading debtors or others as to the respondent's place of business, that his business is located in Washington, D. C., or any place other than its actual location; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, David Bernstein d. b. a. Business Research, etc., Docket 5804, July 9, 1951]

In the Matter of David Bernstein, an Individual Trading and Doing Business as Affiliated Credit Exchange and Business Research

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 5, 1950, issued and subsequently served its complaint in this proceeding upon the respondent, David Bernstein, an individual trading and doing business as "Affiliated Credit Exchange" and as "Business Research," charging said respondent with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of the respondent's answer thereto, hearings were held at which testimony and other evidence in support of the complaint were introduced before a trial examiner of the Commission theretofore designated by it, and a stipulation by and between counsel was entered on the record to the effect that the material allegations of fact set forth in the complaint were correct. The aforesaid testimony and other evidence were duly recorded and filed in the office of the Commission, and on December 26, 1950, the trial examiner filed his initial decision.

Within the time permitted by the Commission's rules of practice the respondent filed with the Commission an appeal from said initial decision; and thereafter this proceeding regularly came on for final consideration by the Commission upon the record herein, including the respondent's brief in support of its appeal and the brief in opposition thereto filed by counsel in support of the complaint (oral argument not having been requested); and the Commission, having issued its order sustaining in part and denying in part the respondent's appeal, and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order, the same to be in lieu of the findings as to the facts, conclusion, and order included in the initial decision of the trial examiner.

It is ordered, That the respondent, David Bernstein, an individual trading and doing business as Affiliated Credit Exchange and as Business Research, or trading under any other name or trade designation, and his representatives, agents and employees, directly or through any corporate or other device, in connection with the use of post cards or other written or printed material in carrying on the business of collecting or aiding in the collection of debts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Business Research", or any other word of words of similar import, to designate, describe or refer to the respondent's business; or otherwise representing, directly or by implication, that the respondent is engaged in research in business or in other forms of research.

2. Representing, directly or by implication, that the respondent's said business is other than that of collecting accounts or debts, or that the information sought by means of the respondent's devices is for any purpose other than for use in the collection of accounts or debts.

3. Representing for the purpose of misleading debtors or others as to the respondent's place of business, that his business is located in Washington, D. C., or any place other than its actual location.

It is further ordered, That respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Issued: July 9, 1951.

By the Commission.

[SEAL] WM. P. GLENDENING, Jr.,
Acting Secretary.

[F. R. Doc. 51-10971; Filed, Sept. 11, 1951; 8:50 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Rev. S. O. 874, Amdt. 1]

PART 95—CAR SERVICE

REQUIREMENTS FOR LOADING OF GRAIN PRODUCTS AND BY-PRODUCTS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 6th day of September A. D. 1951.

Upon further consideration of the provisions of Revised Service Order No. 874 (16 F. R. 2040, 3133), and good cause appearing therefor: It is ordered, that:

Section 95.874, *Requirements for loading of grain products and by-products* be, and it is hereby, amended by substituting the following paragraph (h) hereof for paragraph (h) thereof:

(h) *Expiration date.* This order shall expire at 11:59 p. m., March 15, 1952, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

It is further ordered, that this amendment shall become effective at 11:59 p. m., September 15, 1951; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 1, 15, 24 Stat. 379, as amended, 384, as amended; 49 U. S. C. 1, 15)

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-10956; Filed, Sept. 11, 1951; 8:48 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter B—Hunting and Possession of Wildlife

PART 6—MIGRATORY BIRDS AND CERTAIN GAME MAMMALS

EDITORIAL NOTE: In F. R. Doc. 51-10538, appearing at page 8894 of the issue for Saturday, September 1, 1951, the following changes should be made:

In item 3 adding new schedules to § 6.4, the paragraphs designated (e), (f), (g), and (h), should be designated subparagraphs (5), (6), (7), and (8), respectively, of paragraph (e).

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Parts 14, 15]

ATTORNEYS AND AGENTS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the time for submitting written comments on the proposed regulations dealing with attorneys and agents for Indian tribes, Title 25, Code of Federal Regulations, Parts 14 and 15, that were published in the FEDERAL REGISTER on August 11, 1951, is extended for an additional 30 days, to and including October 10, 1951.

DALE E. DOTY,
Assistant Secretary of the Interior.

SEPTEMBER 6, 1951.

[F. R. Doc. 51-10934; Filed, Sept. 11, 1951; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 904]

[Docket No. AO-14-A20]

HANDLING OF MILK IN GREATER BOSTON, MASS., MARKETING AREA

DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER AMENDING THE ORDER NOW IN EFFECT

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Burlington, Vermont, and at Boston, Massachusetts, on April 2-7, 1951, inclusive, pursuant to notice thereof which was issued on March 14, 1951 (16 F. R. 2511), upon proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Greater Boston, Massachusetts, marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on July 13, 1951, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision and opportunity to file written exceptions thereto which was published in the FEDERAL REGISTER on July 18, 1951 (16 F. R. 6873; Doc. 51-8239).

Within the period reserved for exceptions, interested parties filed exceptions to certain of the findings, conclusions, and actions recommended by the Assistant Administrator. In arriving at the findings, conclusions, and regulatory provisions of this decision, each of such exceptions was carefully considered in conjunction with the record evidence pertaining thereto. In some instances comment on exceptions has been made below. To the extent that the findings, conclusions, and actions decided upon herein are at variance with the exceptions, such exceptions are overruled.

The material issues presented on the record of the hearing were whether:

(1) The basis for pricing Class II milk should be revised;

(2) A weight of 33 rather than 33.48 should be used for a can of 40 percent cream in the computation of the butterfat differential;

(3) The marketing area should be revised to include the government installations of Fort Devens, Camp Edwards, Bedford Airport, Bedford Veterans Hospital and Framingham Veterans Hospital;

(4) The present location differentials paid to nearby producers should be eliminated;

(5) A method for computing a composite wage index for use in the Class I formula should be provided;

(6) Provision should be made for the use of equivalent prices, indexes, and wage rates;

(7) The operator of the milk plant should be made the responsible handler with respect to payment, reporting and other obligations imposed by the order for all milk and milk products received at such plant;

(8) Producer milk under the Worcester, Springfield, or Lowell-Lawrence orders diverted to a Boston pool plant should be excluded as producer milk under the Boston order;

(9) The classification provision should be revised with reference to milk received from producer-handlers or disposed of to producer-handlers and buyer-handlers;

(10) The pooling provisions should be revised to exclude from the current pool computation milk of any nonpool handler in noncompliance with reference to the payment and reporting provisions;

(11) Certain other nonsubstantive changes should be made to delete obsolete language and to make the language of the Boston order conform with that of other market orders.

Findings and conclusions. Upon the basis of evidence introduced at the hearing and the record thereof with respect to the aforementioned issues it is hereby found and concluded that:

(1) The basis for pricing Class II milk should be revised.

The principal issue dealt with at the hearing concerned the level of the Class II price and the formula factors which might be used to determine the Class II price from month to month. A committee of experts in milk marketing and cost accounting had been studying the problems involved in pricing surplus milk for the Boston market for a period of approximately 2½ years. This committee had prepared a report of its studies and certain conclusions reached as a result of those studies. Members of the committee appeared at the hearing to testify with respect to the overall report and particular details of the report. Several of the committee members also appeared as representatives of interested parties and in that capacity offered testimony with respect to specific recommendations for amendments to the Boston order which would incorporate changes based on the findings of the committee.

An important part of the committee study and report dealt with the phrasing of objectives to be sought in establishing surplus prices for the Boston fluid milk market. Under the Boston order milk sold by producers to handlers is classified for pricing purposes in two classes. Class I milk, which includes fluid milk and fresh fluid milk products, is priced under the classified structure at a higher price than Class II milk, which is regarded as surplus to the fluid market and is priced at a lower figure. The use of this method of pricing a part of the market supply at lower prices is necessary in order to move the daily and monthly excesses over fluid requirements into uses as cream and manufactured dairy products.

The committee visualized as its first objective in pricing Class II milk the need for moving this surplus-priced milk in an orderly manner into dairy products of milk. Its second objective pointed to the need for returning to producers the highest practicable prices for dairy products for which marketing outlets are available in the local market.

Other important objectives defined by the committee were the need to encourage efficiency in processing and marketing and the necessity for a Class II pricing method which would be logical and simple.

In view of the large effect of the Class II price on the blend price in the Boston market the problem of Class II pricing cannot be regarded as merely an adjunct to Class I pricing but must make its own contribution to the blend. In the year 1950 Class II milk marketed under the Boston Federal order program amounted to 46 percent of the deliveries by producers and 1 out of every 3 dollars paid to producers was for Class II milk.

Foremost among the applicable standards for establishing fluid milk prices under the Marketing Agreement Act is maintenance of an adequate supply. The amount of reserve maintained by the market has varied widely from time to time. The factors which determine the amount of reserve which should be considered adequate for the market under various circumstances needs to be examined from various points of view. Producers are primarily concerned with the effect that a large reserve supply has on the blend price. If the blend is lowered because of a large reserve, or because of too low Class II prices, producers are impelled to seek higher Class I prices. Consumers who purchase Class I milk products are affected by a large reserve supply if it is

to be supported by an increased Class I price. Since the handlers' incentive for carrying reserve supplies varies under the present practice of formula pricing, with the handlers' allowance used in computing the formula price, a liberal view toward handling margins will induce a liberal view on the part of handlers in regard to the quantity of reserve supplies needed. In the long run excessive reserve supplies become a burden on consumers.

In addition to the longer-time effect of handlers' allowances for surplus milk handling on the necessary Class I and blend prices for the market, there is a potent and immediate effect on the supply of milk for the fluid market through the relative margin represented by the allowance. If handling allowances on surplus milk are lucrative as compared to earnings which can be obtained from sales of Class I milk, handlers will be encouraged to withhold needed supplies from the fluid market.

Although the committee report and several witnesses at the hearing pointed out that prices paid for milk for manufacturing uses in other parts of the country did not always reflect current changes in the value of milk for manufacturing in the Boston milk market, it was generally conceded that over longer time periods the value of milk for manufacturing in the Boston milk market could be expected to reflect the same general level and changes as are shown in the prices paid for manufacturing milk in the principal manufacturing regions of the country. The Class II prices which have been effective under the Boston order show a very close long-time relationship to the prices paid at manufacturing milk plants. Assuming that actual surplus prices in the Boston area have been such as to maintain sufficient processing facilities, it appears that in the long run any inefficiencies inherent in surplus handling for the Boston fluid market have been offset by freight and marketing advantages over operators of surplus area milk manufacturing plants.

An appraisal of the Class II price structure which has been effective in the market is necessary in order to determine whether or not some automatic pricing method which would reproduce substantially the same results would have been desirable as a method of pricing. Although there is some indication that prices in certain periods for surplus milk have been considered by persons in the market as out of line with actual market values, the Class II prices which have existed in the market for the past ten years appear to have accomplished the two primary objectives of the Class II pricing as set forth by the committee. The surplus milk has moved readily enough into marketing channels so that proprietary handlers have been willing to accept all of the milk delivered by producers during that period. Producers cooperative associations which operate plants are obligated to receive members milk even though the prospect for earnings on such milk is not favorable. However, there is no indication in this record that proprietary handlers have been shifting an increasing share of the handling of Class II milk to cooperative association handlers. There is no evidence in the record of homeless milk or of any period in which any substantial group of producers sought an outlet for their milk in the Boston market and could not find it. The record indicates also that adequate capacity for manufacturing surplus milk has been maintained in the market. Some increase in capacity was developed between 1949 and 1951. Several operators of surplus milk plants indicated that they have purchased or are purchasing new equipment for handling surplus milk. On the other hand the prices were apparently not so low that they retarded the flow of milk to the fluid market for any considerable time.

The level of Class II prices which can be maintained at any particular time and have milk readily accepted depends upon the uses which can be made of surplus milk in the market at that time and the value of the products made. It is recognized that Class II prices should change from time to time with indicators of the general level of prices of products in which Class II milk is utilized. Various price quotations are available which give an indication of the changes in values both of the butterfat content and the nonfat solids content of products of Class II milk. A more difficult problem is that of relating these indexes of change in market prices to the share of those market values which should be returned to dairymen as representative of the value of the raw product delivered by farmers.

The recommended method of pricing for Class II milk set forth herein has been developed by devoting attention to the refinement of the factors designed to measure changing values with an appraisal of the resulting Class II price based on whether or not such Class II price can be expected to bring about orderly market conditions wherein the necessary reserve of Class II milk will be accepted by handlers. It seems appropriate therefore to consider first the detail of the factors which will be expected to reflect certain changes in market values and then consider the matter of the appropriate level of the price.

The order now provides that the Class II price, except for Class II butterfat used to make butter or Cheddar cheese during certain months, shall be determined by a formula using market price quotations for cream and nonfat dry milk solids. Although there was some testimony in favor of using the prices paid at manufacturing plants as a measure of the value of Class II milk in the Boston market, most of the expert opinions favored the use of the cream and nonfat milk solids quotations as a basis for measuring changing market values. The record indicates that the prices quoted for cream and nonfat dry milk solids usually reflect the major changes in the value of products which can be made from Class II milk in the Boston market. The price quotations currently used in the order and recommended by the committee are: The weighted average price paid for 40 percent cream received at Boston from sources other than Boston pool handlers and the average price received by operators of manufacturing plants in the Chicago manufacturing area for nonfat dry milk solids. The committee recommended the use of spray and roller price quotations for nonfat dry milk solids whereas the present formula utilizes only the price quotation for roller process nonfat dry milk solids.

The weighted average price for cream at Boston as reported by the United States Department of Agriculture represents the price which handlers of fluid cream and processors of ice cream in the New England region pay for fluid cream purchased from sources outside the Boston pool. The record indicates that during certain periods the volume of cream purchased from outside sources has been so small that it is questionable whether the price for the small quantity purchased is representative of the price which handlers would have had to pay for a substantial quantity of cream.

For a few months in 1950 there were insufficient purchases upon which to base any quoted cream price. It is important therefore to provide in the order a method of determining an equivalent fat value in circumstances in which a cream price is not reported. The general relationship between the cream price in the Boston market and the reported price for 92-score butter sold wholesale in the Chicago market indicates that the butter price would prove to be a suitable alternative for reflecting changes in cream values when a cream price is not available. The cream price equivalent should be computed on the basis of the relationship between cream and butter prices in the three months preceding the month in which an equivalent must be determined. The use of a recent period in determining this relationship is used in order to reflect current market conditions. From time to time the prices paid for cream at Boston show varying amounts of premiums over the butterfat value at Chicago.

The committee recommended that a simple average of the prices paid for spray and roller process nonfat dry milk solids at manufacturing plants be used to measure the changes in value of skim milk in surplus milk rather than the roller price quotation only. The production of nonfat dry milk solids by the spray process has increased relative to the production of the roller process product in the New England states and in the United States as a whole in recent years. About two-thirds of the nonfat milk solids produced in New England in 1948 and 1949 was manufactured by the spray process. Spray prices are higher than prices paid for the roller process product. Under the present program of support prices as announced by the United States Department of Agriculture the difference in the support prices for the spray and roller product is 2 cents per pound. By averaging the prices for nonfat solids manufactured by the spray process as well as by the roller process the value of nonfat solids can be reflected more accurately since most of the product is now manufactured by the spray process.

The committee studied data which showed the quantities of dairy products which were obtained in actual manufac-

turing operations at pool plants where Class II milk was manufactured in the New England region. The yield of nonfat dry milk solids by the spray process per 100 pounds of skim milk was found to be 8.8 in a 20-month period studied. Yields of the roller processed product were found to be 8.52 in the same study. These figures represent more precise measurements of the quantity of skim milk which can be obtained from 100 pounds of skim milk under the conditions of manufacture in the Boston market than have been available previously. From the indicated yields of nonfat solids per 100 pounds of skim milk the committee recommended a factor of 7.85 representing the yield of nonfat solids per 100 pounds of whole milk. This factor should be adopted as a part of the pricing formula.

The present Class II formula contains a factor which represents the pounds of butterfat contained in a 40-quart can of 40 percent cream. Studies of actual weights of cans of cream marketed at Boston indicate that the weight of butterfat in a 40-quart can is somewhat less than the 33.48 pounds used in the current formula. The committee found that the content of actual cans moved in cream trade in the Boston market is approximately 33 pounds. This factor representing actual conditions should be used in the formula.

There is normally some product lost in the conversion of milk into products which provide an outlet for surplus Class II milk. The committee recommended that this recognized loss be compensated for in the formula by factors which apply to that part of the formula which would determine the total market value of the product to be sold. In normal operations for conversion of butterfat into surplus products the committee found that there was a usual loss of about 2 percent of the product. The record indicates that this estimate of loss is reasonable. Therefore, the computation of the value of butterfat derived from Class II milk should be determined by taking into account this normal loss of the product. In the case of skim milk conversion into manufactured products the committee found that the use of a factor of 7.85 as representative of the actual quantity of nonfat dry milk solids which could be obtained from the skim milk portion of a hundredweight of whole milk would reflect the normal loss of skim product in surplus handling operations.

It is concluded that the gross market value of butterfat and skim milk should be determined according to the methods proposed by the study committee. The gross product value before deduction of the handlers' allowance would have resulted in prices computed according to the recommended method of 8 to 10 cents higher than the actual gross product values used in determining Class II prices during 1950.

With these conclusions concerning the computation of the gross product value of Class II milk it is necessary to determine then what share of the gross should be allowed handlers for their part in processing the product. The study committee collected data concerning the cost of handling Class II milk in the Boston market during the year 1948, which was interpreted to show that handlers who processed Class II milk during 1948 lost approximately 50 cents per hundredweight on all Class II milk handled. The total loss for the ten manufacturing plants studied amounted to $1,260,434. The calculated interest on investment of 2.62 cents per hundredweight of product handled as shown by the committee to be computed at a rate of 6 percent indicates a total investment of 1½ million dollars for handling the 357½ million pounds of milk which were handled by these manufacturing plants in 1948. Therefore, the loss rate sustained in 1948 appears by this calculation to have resulted in a total loss in an amount equal to 80 percent of the total investment for handling Class II milk at these manufacturing plants.

Several committee members indicated reservations concerning the acceptance of the 50 cent loss figure as a basis of appraising the entire industry's financial position in 1948. There was a rather wide range in loss rates computed for the individual plants for which data were obtained in the study. Committee members attributed the difference in the loss rates to varying degrees of efficiency at each of these plants. However, the record contains no specific information to indicate that there were actual differences in the handling operations at the various plants which could have been regarded as reflecting different levels of efficiency in the handling of milk. Furthermore there is no evidence that the industry as a whole was grossly inefficient during the year 1948 in the handling of surplus milk. Since the handling of Class II milk is done by manufacturing concerns who also do a fluid milk business the segregation of earnings or losses in the Class II milk business and those in the Class I milk business involves a great deal of estimate in analyzing the financial status of such handlers. If the 50 cent loss figure computed from the cost studies was actually sustained on all Class II operations during the year 1948 it would have represented a loss of more than 17 cents per hundredweight on all milk received from producers by handlers during the year. The record does indicate that cooperative associations who handled more than the average volume of Class II milk did reduce their reserves in 1948 2½ cents per hundredweight below the reserves for 1947. However, during the calendar year 1948 these same cooperatives paid out 2.2 cents over the uniform blend price to producers delivering to their plants. Producers delivering milk to proprietary handlers received payments over the uniform blend price amounting to nearly 8 cents per hundredweight. It appears then that the 17 cents per hundredweight loss figure did not actually come out of farmers returns either in their net monthly payments or in the form of decreased reserves in their farmer-owned cooperative associations. A large part of the calculated loss on handling Class II milk then must have been offset by earnings on the handling of Class I milk during the same year.

The handlers of Class II milk also serve as the suppliers of Class I milk for fluid milk distributors who do not maintain their own reserve supply of fluid milk. The handlers who maintain this reserve supply charge buyers varying rates over the Class I price for the service. Average margins for each month during 1948 varied from a high of 49.6 cents to 29.4 cents. Average mark-ups on Class II milk varied from 77½ cents to 20.7 cents. The individual highs and lows during each month show an even greater range.

If the claim that handlers should have been entitled to 50 cents more per hundredweight for handling Class II milk during 1948 were to be granted, it is important to consider just how this adjustment would have affected the entire earnings of handlers generally. It is not reasonable to assume that if Class II handling operations had been more attractive during 1948 the mark-ups on bulk Class I and Class II milk would have been lower. It is more likely that an unattractive prospect in handling Class II milk would have a tendency to restrain mark-ups on bulk sales during the year. If the additional allowance then could not be expected to have an adverse effect on the earnings from the Class I part of the business the full amount of the 50 cent adjustment would have been available to handlers for distribution as earnings during the year 1948. Operating cooperative associations which had a large proportion of Class II milk would not have had the full amount to distribute to their members since the record does indicate that net overpayments by such handlers to members failed to equal the reduction in reserves from 1947 to 1948 by about three-tenths cent per hundredweight.

Information is not available from the record to conclude that 17 cents per hundredweight was needed by handlers in 1948 to maintain handling and processing facilities sufficient to take care of the fluid market and the necessary reserve of Class II milk for the market. The record does show that there is adequate capacity for handling surplus milk in 1951. It shows that the capacity has been increased somewhat since 1949.

It appears from the above appraisal of the Class II loss figures computed by the study committee for operations during the year 1948 that the calculated loss figures can not be utilized independently. Although some refinement of this particular cost figure could be developed with further consideration of certain factors affecting the cost of processing surplus milk in the Boston market, there appears to be no practical method of applying the long-time influence of costs to the determination of formula prices. Prices must be responsive to current conditions which in the short run may not conform to current costs.

The committee examined various series of data which are regularly published as indicators of changes in the prices of certain classes of goods with the purpose of recommending some series or group of series which could be used to

estimate anticipated changes in costs of handling surplus milk. These indexes of cost rate changes such as labor-wage rates, construction costs and wholesale price levels were compared with data on cost rates obtained from certain handlers operating in the Boston market. It was observed that certain indexes of cost rates which are regularly published reflected about the same changes as those which were indicated from the records of the handlers. Lacking any information on adjustments which take place in cost items which are not reflected by the change in the price or cost rate for such items, the committee calculated an average index of cost upon the rates alone. The committee suggested that this index of cost rate changes be used to reflect changes in the allowance for handling surplus milk. Several members of the committee indicated that the effect of volume upon changing unit costs needed to be used as well as the indexes of changes in the cost rates. However, the committee as a whole had abandoned the idea of including a volume cost adjustment since they recognized that they had not yet been able to compute the effect of volume on the income side of any profit and loss statement.

The chances of any formula mechanism producing a reasonable price over a period of time depends largely on whether or not the formula factors chosen reflect the items of greatest importance in bringing about changes in the market situation. It appears from the studies of the committee that the combined cost rate index is not among the most important elements affecting costs or necessary changes in the surplus price structure. For example, the change in the average index of cost rates indicated a reduction of the handlers' costs from December 1948 to April 1950 of 0.8 cent. On the other hand, the influence of volume according to the calculations of the committee for the 12 months ending April 30, 1950, as compared to the 12 months ending December 31, 1948, would have reduced costs slightly more than 20 cents. If the price were appraised on the basis of margins on Class I milk in excess of receiving station costs the committee report indicates that the excess of margins over calculated receiving station costs for the year ending December 1948 was 11.2 cents per hundredweight whereas for the 12 months ending April 1950 the difference was 4.3 cents. This represents a difference in the relative advantage of handling bulk Class I milk of 6.9 cents. The index of cost rate changes therefore, appeared in this period not to have been a primary item affecting the necessary allowance from gross product values for the handling of surplus milk.

The index of cost rate changes bears little resemblance to actual changes which were effective in Class II allowances during the past 10 years. For example, the cost rate index would have indicated a 33 percent increase in the handlers' allowance from 1945 to 1947. Although there was some modification of the Class II formula during this period there were no substantial changes made in the handlers' allowance. There is nothing in the record to indicate that the 1947 allowance should have been 33 percent greater or if the 1947 allowance were assumed to be correct that the 1945 figure was obviously too high. Exceptions were filed to the finding that evidence failed to support a difference of 33 percent in the handlers' allowance from 1945 to 1947 on the grounds that high handling allowances in both years had resulted in disorderly market conditions and on grounds that handling allowances in 1947 were too low but had been offset to some extent by higher product values than the existing price formula reflected. The record clearly does not reveal that a marked change should have been made in the surplus price formula between 1945 and 1947. If the possible need for adjusting the allowance factor was offset by compensating changes in product values in that period, such counterbalancing is an important consideration in explaining why the index used alone did not produce reasonable results. Since we have no evidence that handlers' allowances in the past 10 years have been so out of line as to produce disorderly market conditions it is not feasible to recommend as a basis for future changes in prices a factor which would have produced substantially different results in the past.

The record indicates that during 1950 surplus milk was marketed in an orderly manner under the existing price structure. There is no basis for finding that marketing conditions in 1951 can be expected to be less advantageous to handlers processing surplus milk than they were in 1950. The indicated total quantity of surplus milk to be marketed is expected to be somewhat less than during the year 1950. The demand for dairy products is stronger this year than last. The record indicates that Boston handlers received in 1951 prices for nonfat dry milk solids about ⅔ cent per pound higher than prices received by manufacturing plants in the Chicago milkshed, whereas, during 1950 the prices received by Boston handlers at country points were approximately equal to the prices received by manufacturing plants in the Chicago area. The higher price received by Boston handlers relative to the price quoted at country manufacturing points in the Chicago area represents additional income to handlers calculated at yield rates recommended by the committee of approximately 5 cents per hundredweight.

If the prices received by Boston handlers for nonfat dry milk solids continue to be above the Chicago area price on which the Class II price is computed this additional income should be accounted for in the formula. However, there is not available a regularly published series of the prices received for nonfat dry milk solids by Boston handlers and it cannot be concluded from the record that the current relationship will continue throughout the year. It is therefore concluded that since the amount of this indicated adjustment cannot be computed precisely, the adjustment should be appraised in general terms and should be considered in connection with offsetting factors.

Exceptions were filed to the importance attached to the evidence that Boston handlers had been receiving prices for nonfat dry milk solids higher than the price quotations used in computing the Class II formula price, on the grounds that the data applied only to a few recent months. One exceptor contended that the higher prices were due to Boston handlers' prices moving more promptly in line with central market prices. Prices of roller and spray nonfat dry milk solids are regularly published by the Department of Agriculture for Chicago area manufacturing plants and for sales f. o. b. Chicago. Official notice has been taken of these prices published for the first seven months of 1951. The average of spray and roller process nonfat milk solids prices at Chicago remained through each of the seven months at a level higher relative to plant prices than was the case in 1950. If, as the exceptor indicates, Boston handlers' prices show some similarity to central market prices, this relationship confirms the conclusion that Boston handlers can be expected to recover from nonfat dry milk solids some increase in income in 1951 over 1950. Consideration should be given to evaluating this factor again before the flush production season of 1952.

In concluding that the surplus price structure during 1950 resulted in prices generally in line with the basic objectives of orderly marketing, it is recognized that there were some differences during 1950 in the net returns to various groups of producers. The record indicates that producers who delivered milk to cooperative associations which disposed of a large part of their product as fluid Class I milk obtained the largest excesses of payments over the blend price. The same circumstance occurred in 1948 and 1949. This would tend to indicate that proprietary handlers who purchased Class I fluid milk from these cooperative associations paid somewhat more than the order minimum prices for bulk Class I milk. Since these handlers had Class II milk in their own operations, it may be presumed that they preferred to pay the higher price for additional bulk milk rather than relinquish any of the Class II milk which they received directly from producers for processing. Although it might be concluded from this evidence that the handling allowance on Class II milk has been too liberal and has therefore fostered payment of premiums to certain groups of producers, the evidence in this respect is not conclusive enough to warrant a reduction in the allowance at the present time.

Proprietary handlers excepted to any finding that their Class II operations were maintained for any purpose other than protection against a short supply situation in which sellers of bulk milk might demand prices so high that they reflect even more than the cost to such handlers of carrying their own reserve. The purpose described above does appear, from the record, to be the logical intent of handlers who have acquired Class II supplies of milk. However, the

incentive to hold down cost of reserve supplies for fluid uses during short production periods illustrates the interdependence of Class II handling allowances and cost of short season reserve supplies.

The net returns to producers delivering to cooperative associations who have a large share of the Class II for the market and producers who delivered to proprietary handlers amounted to approximately the uniform blend price during 1950. Although actual payments to the producers delivering to operating cooperative associations with large amounts of surplus were a little over 1 cent below the uniform price in 1950, indicated increases in reserves would have offset this figure.

Another consideration in appraising the relative returns to groups of producers is the general practice of producers' bargaining associations of deducting a stated amount for the conduct of the bargaining associations' activities whereas cooperative associations which operate their own plants generally do not make a specific deduction named for this purpose. The amounts of these deductions vary of course with the different associations and result in some differences in net return between association members where the service charge is stated and where it is merely a part of the operating costs of the handling operation.

In making comparisons of net returns to producers, official notice is taken of the fact that a fund has been accumulated since February 1949 by court order in the amount of 1 cent per hundredweight on all milk delivered by members of producers' bargaining associations and 2 cents per hundredweight on all milk delivered by members of producers' cooperative associations which operate plants. These funds have been accumulated under court order pending the decision of the United States Supreme Court concerning the legality of such payments to cooperative associations as provided in § 904.10.

In line with the foregoing findings it is concluded that the committee's recommendations with respect to the method for computing the gross butterfat and skim milk values in the Class II formula be adopted and that an offset be made in the handlers' allowance to result as nearly as possible in a formula which would have produced in 1950 the same Class II price as that which actually existed.

Although there is an indication of increased income from Class II products in 1951 relative to the price quotations used, it cannot be determined clearly from the evidence available that such income will not be offset by other factors.

There was some testimony in the hearing record which indicated that it may be desirable not to rely exclusively upon the hearing method for making adjustments in the handlers' allowance. There was general support for incorporating into the Class II price structure some method whereby the handlers' allowance could be changed automatically from time to time. The committee of experts recommended an index of changes in cost rates for this purpose. However, as it has been indicated in the foregoing the changes in cost rates do not represent the most widely variable influences on the Class II price. It has been found that Class II prices in the Boston fluid milk market have varied over long periods generally in line with changes in prices paid at manufacturing milk plants. From month to month the changes have been rather large but variations tend to average out over a 12-month period.

A series which shows a close relationship to the Boston Class II price is the average price paid for milk for manufacturing purposes as reported by the United States Department of Agriculture for a representative group of milk manufacturing plants. The prices are based on milk used in the manufacture of Cheddar cheese, evaporated milk, butter, and nonfat milk solids. In 1950 the Boston Class II price adjusted to an equivalent butterfat test varied from this average price less than one-half cent for the year as a whole although month-to-month variations were from minus 19 cents to plus 20 cents. It is obvious that the seasonal pattern of the two price series is greatly different. Therefore, the comparison of the two series should be made on the basis of a 12-month moving average. For convenience in making price comparisons, the manufacturing milk price series should be adjusted to a 3.7 percent butterfat basis by applying the butterfat differential under the provisions of the Greater Boston order.

The seasonally lower price for Class II milk in the Boston market in the flush production months and the gradually increasing price relative to market value in the fall and winter months tends to encourage the orderly marketing of surplus milk. In the season of large surpluses handlers are encouraged by the lower prices to accept milk for manufacturing. When supplies are seasonally short in the fall, the higher prices discourage manufacturing and consequently encourage the movement of needed supplies to the fluid market. The record indicates that the present plan of seasonal pricing should be continued.

Any substantial drop in the Class II price for a considerable time relative to the price paid for manufacturing milk would generally indicate that the Class II formula factors were not reflecting accurately the value of milk for manufacturing in the Boston area. It is concluded, therefore, that the handlers' allowance should be adjusted whenever the Class II price adjusted to the butterfat test for which prices paid for manufacturing milk is reported by the United States Department of Agriculture is less than the manufacturing milk price by 5 cents or more on a 12-month average basis. In order to avoid a temporary adjustment the change in the handlers' allowance should be delayed originally until the month following that in which the 12-month average has shown a 5-cent divergence.

It is recognized that an automatic adjustment based on the relationship between these two price series for the 12 preceding months would not always bring about the most desirable results. Neither, apparently, does an allowance in terms of a fixed amount per hundredweight. The deferment of the adjustment until it reaches 5 cents per hundredweight will provide time to reappraise the price by the hearing procedure if there is evidence of some unusual circumstances which warrants the continuance of the lower price.

The automatic allowance adjustment will provide a guide by which handlers can calculate the probable price in relation to manufacturing milk values. Thus some of the uncertainty concerning buying prices can be removed. Unusual and emergency conditions can still be dealt with through the hearing procedure.

It may be contended that the automatic adjustment feature should operate to increase the allowance when Boston Class II prices are substantially higher than manufacturing milk prices. If the volume of surplus milk remained at a relatively high level in the Boston area, it would appear logical that a downward adjustment should be made when prices paid for manufacturing milk are consistently less than Boston Class II prices. However, it is generally during periods of milk shortages in the Boston area and small volume Class II use that the Boston Class II price has been higher than the manufacturing milk price. In those periods a lower Class II price would have reduced the incentive to move milk to the fluid market and would not be reasonable. It is concluded, therefore, that the changes as recommended herein are all that can be supported by the evidence and analysis available in this record.

Several exceptions were filed to the choice of this particular price series as a floor below which the level of the Class II price should not fall. Some exceptors contended that the series represented a floor price too low and others that it represented a price too high. It was pointed out that the series has been collected for a limited period and therefore comparisons can be made only over a short time period. A new hearing was urged on this proposed provision in order to afford an opportunity for a public appraisal directed more distinctly at weighing the favorable and unfavorable features of this manufacturing milk price series. The exceptors failed to show that any other price series would be clearly more suitable as a minimum price device. As indicated above, the adoption of this floor would in no way preclude the calling of a public hearing if the current market situation indicated the need for a price revision.

(2) The factor of 334.8 in the butterfat differential price computation should be changed to 330. The studies made by the committee examining the Class II price factors shows that the butterfat contained in a can of 40 percent cream is approximately 33 pounds rather than 33.48 pounds. The butterfat differential represents the value of one-tenth pound of butterfat at the weighted average

cream price less the freight on cream shipped 200 miles to the Boston market. The revision in this factor would increase the butterfat differential about one-tenth cent. According to the findings of the study, the proposed factor would reflect more accurately the actual value of butterfat in terms of its use as fluid cream. Since the butterfat differential has been related historically to its fluid cream value, the proposed factor should be adopted.

Exceptions were filed to the failure to reduce the calculated butterfat differential by a factor representing shrinkage which exceptors contend is directly proportional to the butterfat test of milk. The record contains no report of butterfat losses sustained on milk of different tests. The committee report did call attention to several factors which might be taken into consideration, such as the compensating value of the greater percentage of solids in higher testing milk and the constant freight factor on milk shipments regardless of butterfat test. It is concluded, however, that there is no basis in this record for modifying the butterfat differential by factors designed to reflect each of these influences on the value of milk at different tests.

(3) The proposal to extend the Boston marketing area to include specified military installations should not be adopted. The present marketing area includes 37 contiguous cities and towns including and surrounding the city of Boston. Producers proposed that the marketing area be redefined to include the noncontiguous territory comprising the military installations at Fort Devens, Camp Edwards, Bedford Airport, Bedford Veterans' Hospital, and Cushing Memorial Hospital. They contend that the Boston pool carries the only reserve supply of milk in New England sufficient to cover these contracts and, accordingly, Boston handlers have historically supplied these military installations. They further contend that unless these installations are included in the marketing area regulated Boston handlers are in danger of losing this market to unregulated handlers.

The record appears clear that proponents' primary interest is in guaranteeing to the Boston pool producers the returns from certain out-of-area concentrated volumes of Class I sales. The inclusion of the military installations in the Boston marketing area would give Boston producers exclusive rights to the returns from sales to such installations since returns from equivalent purchases of Boston pool milk or payments to the pool on outside milk would accrue to Boston producers and not to the individual producers of the unregulated handlers. Proponents contend that a requirement to purchase pool milk in the amount of Class I sales or to make an equalization payment of the difference between the Class I and Class II prices on the volume of outside milk used as Class I would enact no undue hardship on unregulated handlers since such handlers can purchase unregulated milk at the Boston blend rather than at class prices. Since there is a substantial difference between the blend price and the Class II price, the payment required of unregulated handlers would prevent such handlers from making contract bids for amounts larger than the quantity of milk which they could purchase from farmers at the Class II price.

Proponents for the area expansion contend that succesful bidders on some of the most recent contracts could not have shown a profit if the milk were purchased at Boston class prices. They point out inconsistently that Boston pool milk has been a prominent source of supply for the successful bidders of such contracts.

The record fails to show that Boston handlers have supplied these military installations continuously from pool sources in the past. The bulk of the business at these installations is awarded on a contract bid basis and while Boston handlers have held the contracts from time to time, such occasional sales to these noncontiguous areas make them no more a part of the Boston market than the many New England cities which receive regularly a part of their supply from Boston pool supplies.

(4) No change should be made at this time in the location differentials required to be paid to nearby producers. Certain producer interests proposed that § 904.9 (e) of the order, which sets forth the conditions for and amount of location differentials to be paid, be deleted. However, in support of their proposal they presented no material facts different from those considered in establishing specified location differentials as a part of the order provisions.

(5) A final decision with respect to issue No. (5) was issued on July 23, 1951 (16 F. R. 7330), and the order was amended with respect to this issue effective July 25, 1951. The amendment is incorporated in the proposed amended order which is made a part of this decision.

(6) The proposal to permit the Secretary to determine an equivalent to be used in lieu of any price, index or wage rate required in computing class prices and for other purposes set forth in the order provisions and which is not available by the time the market administrator is required to announce such price or perform such act should be adopted. Under the present order provisions the Secretary's authority to determine equivalents is limited to prices of any milk product. The nonavailability of any other price, index, or wage rate needed by the market administrator to compute class prices or perform other specified functions would appear to preclude the market administrator from performing such duties. The adoption of this proposal will recognize the responsibility of the Secretary in acting when certain required information is not available and will facilitate the operation of the order by assuring the prompt announcement of prices and butterfat differentials and the timely payment to producers of the full amounts due them for the milk delivered to order handlers.

(7) The proposal to amend the order to provide that the operator of a milk plant be the responsible handler with respect to payment, reporting and other obligations under the order for all milk and milk products received at such plant should be adopted. The operator of a plant is the logical person to be held responsible for maintaining an accurate record of the weight and test of milk received from producers. The plant operator has control of the receiving function and should be responsible for maintaining proper records of such receipts. Since payment would be made on the basis of weights and tests of the receiving plant, as verified by the market administrator, it follows that the operator of such plant should be held responsible for paying producers and for other obligations imposed by the order upon a handler. Milk temporarily diverted to a nonpool plant from the plant of a handler for the account of such handler should be considered as having been received at the pool plant since producers of such milk would ordinarily be regular suppliers of the market and as such should be assured the market blend price for their milk.

It was proposed in connection with this proposal that bulk milk of dairy farmers received at a pool plant for processing and for which an equivalent volume of processed milk is returned to the dairy farmer be considered exempt milk. There was no objection to the exemption of such milk from the market pool. The number of persons and the quantity of milk involved in this type of transaction is small. It is concluded therefore that such milk of a dairy farmer which is delivered to a pool handler for processing and for which an equivalent volume of bottled milk is returned should be considered exempt milk and not included in the pool.

In cases where the volume of milk received from a dairy farmer is in excess of the volume of bottled milk returned such excess milk disposed of to the pool handler may be regarded as producer milk and be pooled and paid for as such.

The processing facilities of pool handlers are sometimes employed by producer handlers and operators of unregulated plants to homogenize milk or package milk under emergency conditions. To the extent that such processing operations apply to milk which would not otherwise be Class I sales of a pool handler, the payments required on outside milk should not be applicable. The record indicates that these processing operations involving milk from nonpool sources do not result in the sale of unpriced Class I milk in the marketing area except that of producer-handlers which has been exempted from pooling. The handler who receives such milk for processing should be responsible for showing that it was handled in such a way as to maintain exempt status and should pay the expense of the market administrator's verification of such records.

(8) The proposal to amend the producer definition to provide that a dairy farmer who is a producer under the Lowell-Lawrence, Worcester, or Springfield orders shall not be a producer under the Boston order with regard to any of his Lowell-Lawrence, Worcester, or Springfield pool milk, as the case may be, diverted to a Boston pool plant should be adopted. Under the present order provisions such diversions could result in

a dairy farmer being considered a producer both at the plant from which his milk is diverted and at the Boston pool plant. Such a situation could involve unreasonable financial costs to the handler if he were required to pool the milk under both pools. The adoption of the proposal will facilitate the handling of surplus milk by providing additional alternative outlets for the surplus milk in secondary markets and during all except the months of April through July could not adversely affect the interests of either the secondary market or Boston producers. However, such diversions would ordinarily most likely occur during the flush season of production when milk both in the secondary and Boston markets may be in excess supply. During these months of April through July in order to facilitate the disposition of surplus milk Boston handlers are allowed a butter and cheese adjustment on the butterfat disposed of for butter and cheese. Any Lowell-Lawrence, Worcester, or Springfield milk disposed of to a Boston pool plant further taxes existing manufacturing facilities and increases the volume of Boston producers' milk on which the butter and cheese adjustment is applicable. In order to prevent financial loss on the part of Boston producers as a result of the handling of Lowell-Lawrence, Springfield, or Worcester producer milk, the Boston handler might be required to pay into the Boston pool, for distribution to Boston producers, the amount of the butter-cheese adjustment on the butterfat in milk diverted from the secondary market.

Producers, as well as handlers, excepted to this method of dealing with the problem of diverted surplus milk from secondary markets differently from surplus milk transferred to Boston from a milk plant in the secondary market. Upon further consideration, it appears that handlers should not be required to pay the butter-cheese differential on milk diverted to Boston without a more complete record with respect to the effect of such transactions on the surplus burden reflected to producers in each market.

(9) The classification provisions should be amended to provide that transfers of milk to producer-handlers be classified as Class I. The order presently provides that sales of milk to a regulated plant, which includes the plant of a producer-handler, be classified on the basis of the actual use of such milk at such plant. It is obviously in the producers-handlers' interest under that privilege to use his own milk in Class I and claim the lowest class utilization in his plant for his purchases from pool handlers.

Producer-handlers ordinarily have only Class I operations and hence any purchases of pool milk in most cases would be for Class I uses. They do not share their high Class I utilization with other producers and regular producers should not be forced to take a Class II classification or to share in such a classification when producer-handlers need additional milk to supplement their own supplies. In cases of dual operations the Class II part of the business would ordinarily be fluid cream and ice cream which can be purchased from pool handlers without penalty as cream, condensed milk, and nonfat dry milk solids, all Class II products.

Milk moved by buyer-handlers to other plants should continue to be classified as Class I. Buyer-handlers get no milk direct from producers but purchase all of their requirements for fluid products from other handlers. Accordingly they are in a position to know exactly what their daily procurement requirements are. The present provisions of the order do not limit purchases for Class II use in the buyer-handler plant, but merely restrict the transfer of milk to a third plant for other than Class I use. Proponents contend that this works a hardship in the case of route returns and excess supplies. However, unless the buyer-handler bottles in excess of his requirements the volume of route returns would normally be insufficient to require processing through another plant. Buyer-handlers should not be encouraged to buy long and transfer milk to nonpool plants for Class II use which would otherwise be available for Class I use.

Receipts of skim milk from producers-handlers should be classified as Class II up to the total quantity of fluid milk products other than cream used as Class II milk in the plant to which it is transferred. Under the present provisions of the order such receipts may be classified as Class I if so utilized. Since producer-handlers ordinarily have a high Class I utilization which they do not share with other producers in the market, other producers should not be required to shoulder a share of producer-handlers' surplus milk. Any sales of skim milk by a producer-handler to a pool handler would logically be milk in excess of such producer-handlers own Class I requirements. The assignment of receipts of skim milk from producer-handlers to the lowest available use class protects regular producers by assuring the utilization of their milk in the highest available use.

(10) The proposal to exclude from each current pool computation milk of any nonpool handler who is not in compliance with the reporting or payment provisions for any prior month should be adopted. The order presently has such a provision with reference to a pool handler in noncompliance. However, a nonpool handler in violation because of not reporting or nonpayment of assessments due continues to be carried in the current pool computation. Under such arrangement it is possible that indebtedness to the pool could reach the point of threatening the solvency of the pool. Exclusion of the milk of such nonpool handlers from the current pool computation assures the solvency of the settlement pool and at the same time does not relieve such nonpool handler of any of his obligations or responsibilities under the order.

The other proposals considered at the hearing involve nonsubstantive changes which merely delete obsolete language or clarify the language of the present provisions. There was no opposition to their adoption and it is accordingly concluded that they should be adopted.

General findings. (a) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The proposed marketing agreement and the order, as amended and hereby proposed to be further amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity, specified in the said tentative marketing agreement upon which the hearings have been held; and

(c) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (a) of the act are not reasonable in view of the price of feed, available supplies of feed, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, are such as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area," and "Order amending the order, as amended, regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

Order Directing The Conduct of a Referendum, Determination of Representative Period; and Designation of Referendum Agent

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the order, as amended, and as hereby proposed to be further amended, regulating the handling of milk in the Greater Boston, Massachusetts, marketing area) who, during the month of March 1951 were engaged in the production of milk for sale in the marketing area specified in the aforesaid order, as amended, and as hereby proposed to be further amended, to determine whether such producers favor the issuance of the order, as amended, which is a part of this decision of the Secretary of Agriculture.

The month of March 1951 is hereby determined to be the representative period for the conduct of such referendum.

Richard D. Aplin is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this decision is issued.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 7th day of September 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order [1] Amending the Order, as Amended, Regulating the Handling of Milk in the Greater Boston, Massachusetts, Marketing Area

§ 904.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed amendment to the order, as amended, regulating the handling of milk in the Greater Boston, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Greater Boston, Massachusetts marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

§ 904.1 *General definitions.* (a) "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(b) "Greater Boston, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns.

Arlington	Newton
Belmont	Peabody
Beverly	Quincy
Boston	Reading
Braintree	Revere
Brookline	Salem
Cambridge	Saugus
Chelsea	Somerville
Dedham	Stoneham
Everett	Swampscott
Lexington	Wakefield
Lynn	Waltham
Malden	Watertown
Marblehead	Wellesley
Medford	Weymouth
Melrose	Winchester
Milton	Winthrop
Nahant	Woburn
Needham	

(c) "Month" means a calendar month.

(d) "Marketing year" means the twelve months' period from August 1 of each year through July 31 of the following year.

(e) "Emergency period" means the period of time for which the market administrator declares that an emergency exists in that the milk supply available to the marketing area from producers is insufficient to meet the demand for Class I milk in the marketing area.

§ 904.2 *Definitions of persons.* (a) "Person" means any individual, partnership, corporation, association, or any other business unit.

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

(c) "Dairy farmer" means any person who delivers bulk milk of his own production to a plant.

(d) "Dairy farmer for other markets" means any dairy farmer whose milk is received by a handler at a pool plant during April, May, June, or July from a farm from which the handler, an affiliate of the handler, or any person who controls or is controlled by the handler, received nonpool milk on more than 3 days in any one of the preceding months of August through March, except that the term shall not include any person who was a producer-handler or a person delivering to a New York order pool plant during any of the preceding months of August through March.

(e) "Producer" means any dairy farmer whose milk is delivered from his farm to a pool plant, except a dairy farmer for other markets and a dairy farmer with respect to exempt milk delivered. The term shall also include a dairy farmer with respect to his operation of a farm from which milk is ordinarily delivered to a handler's pool plant, but whose milk is diverted to another plant, if the handler, in filing his monthly report pursuant to § 904.30, reports the milk as receipts from a producer at such pool plant and as moved to the other plant. The term shall not apply to a dairy farmer who is a producer under the Springfield, Lowell-Lawrence, or Worcester orders, with respect to milk diverted from the plant subject to the other order to which the dairy farmer ordinarily delivers.

(f) "Handler" means any person who, in a given month, operates a pool plant, or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area.

(g) "Pool handler" means any handler who operates a pool plant.

(h) "Buyer-handler" means any handler who operates a bottling or processing plant from which more than 10 per cent of his total receipts of fluid milk products other than cream is disposed of by him as Class I milk in the marketing area, and whose entire supply of fluid milk products is received from other handlers.

(i) "Producer-handler" means any person who is both a handler and a dairy farmer and who receives milk of his own production only from farms located within 80 miles of the State House in Boston, and who receives no milk other than exempt milk from other dairy farmers except producer-handlers.

(j) "Dealer" means any person who operates a plant at which he engages in the business of distributing fluid milk products, or manufacturing milk products, whether or not he disposes of any fluid milk products in the marketing area.

(k) "Consumer" means any person to whom fluid milk products are disposed of, except a dealer. The term "consumer" includes, but is not limited to, stores, restaurants, hotels, bakeries, hospitals and other institutions, candy manufacturers, soup manufacturers, livestock farmers, and similar persons who are not necessarily the ultimate users. The term also includes any dealer in his capacity as the operator of any of these establishments, and in connection with any other use or disposition of fluid milk products not directly related to his operations as a dealer.

§ 904.3 *Definitions of plants.* (a) "Plant" means the land, buildings, surroundings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or processing of milk or milk products.

(b) "City plant" means any plant which is located not more than 40 miles from the State House in Boston.

(c) "Country plant" means any plant which is located more than 40 miles from the State House in Boston.

(d) "Receiving plant" means any plant currently used for receiving, weighing or measuring, sampling, and cooling milk received there directly from dairy farmers' farms and for washing and sterilizing the milk cans in which such milk is received, and at which are currently maintained weight sheets or other records of dairy farmers' deliveries.

(e) "Pool plant" means any receiving plant which, in a given month, meets the conditions and requirements set forth in § 904.20 for being considered a pool plant in that month.

(f) "Regulated plant" means any pool plant; any pool handler's plant which is located in the marketing area and from which Class I milk is disposed of in the marketing area; and any plant operated by a handler in his capacity as a buyer-handler or producer-handler.

(g) "Distributing plant" means any plant from which Class I milk in the form of milk is disposed of to consumers in the marketing area without intermediate movement to another plant.

(h) "New York order pool plant" means any plant designated as a pool plant in accordance with the provisions of Order No. 27, issued by the Secretary, regulating the handling of milk in the New York metropolitan marketing area.

§ 904.4 *Definitions of milk and milk products.* (a) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(b) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term "cream" also includes sour cream, frozen cream, and milk and cream mixtures containing 16 percent or more of butterfat.

(c) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of 1 percent of butterfat.

(d) "Fluid milk products" means milk, flavored milk, cream, skim milk, flavored skim milk, cultured skim milk, buttermilk, and concentrated milk, either individually or collectively.

(e) "Pool milk" means milk, including fluid milk products derived therefrom, which a handler has received as milk from producers.

(f) "Outside milk" means:

(1) All milk received from dairy farmers for other markets;

(2) All fluid milk products other than cream received at a regulated plant from an unregulated plant up to the total quantity of nonpool milk received at the unregulated plant, except exempt milk, emergency milk and receipts from New York order pool plants which are assigned to Class I milk pursuant to § 904.27;

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, without its intermediate movement to another plant.

(g) "Emergency milk" means fluid milk products, other than cream, received at a regulated plant during an emergency period from a plant which was an unregulated plant in the month immediately preceding the month in which the emergency period became effective.

(h) "Concentrated milk" means any unsterilized liquid milk product, other than those products commonly known as evaporated milk and sweetened condensed milk, which is obtained by the evaporation of water from milk and milk to which any other milk product may be added in the process of manufacture. For purposes of this part the weight of the fluid milk products used to produce the concentrated milk shall be used rather than the actual weight of the concentrated milk.

(i) "Exempt milk" means milk which is received at a regulated plant:

(1) In bulk from an unregulated plant or from the dairy farmer who produced it, for processing and bottling, and for which an equivalent quantity of packaged milk is returned to the dairy farmer or to the operator of the unregulated plant during the same month, or

(2) In packaged form from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and bottling during the same month.

(j) "Exempt milk" means bulk milk which is received at a plant for processing and bottling from another plant or from the dairy farmer who produced it, and for which an equivalent quantity of packaged milk is returned during the same month. This definition shall not include milk transferred between two pool plants.

MARKET ADMINISTRATOR

§ 904.10 *Designation of market administrator.* The agency for the administration of this subpart shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 904.11 *Powers of market administrator.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(d) To recommend to the Secretary amendments to it.

§ 904.12 *Duties of market administrator.* The market administrator, in addition to the duties described in other sections of this subpart, shall:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to exercise his powers and perform his duties;

(c) Pay, out of the funds provided by § 904.77, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(d) Keep such books and records as will clearly reflect the transactions provided for in this order and surrender the same to his successor, or to such other person as the Secretary may designate;

(e) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this subpart;

(f) Promptly verify the information contained in the reports submitted by handlers; and

(g) Give each of the producers delivering to a plant, as reported by the handler, prompt written notice of his actual or potential loss of producer status for the first month of the marketing year in which the plant's status has changed or is changing to that of a nonpool plant.

CLASSIFICATION

§ 904.15 *Classes of utilization.* All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 904.16, 904.17, and 904.18, the classes of utilization shall be as follows:

(a) Class I milk shall be all fluid milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all fluid milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as or in milk; and other than as or in concentrated milk for fluid consumption, flavored milk or flavored skim milk, buttermilk, or cultured skim milk, for human consumption; and

(2) As plant shrinkage, not in excess of 2 percent of the volume handled.

§ 904.16 *Classification of milk and milk products utilized at regulated plants of pool handlers.* All milk and milk products received at a regulated plant of any pool handler shall be classified in accordance with their utilization at such plant, except as provided otherwise in § 904.17.

§ 904.17 *Classification of fluid milk products, other than cream, moved to other plants.* Any fluid milk product, except cream, which is moved from the regulated plant of a pool handler to any other plant shall be classified as follows:

(a) If moved to any other regulated plant, except a producer-handler's plant, it shall be classified in accordance with its utilization at the plant to which it is moved.

(b) If moved to a producer-handler's plant or an unregulated plant, it shall be classified as Class I milk up to the total quantity of milk, or the same form of fluid milk products so moved, which is utilized as Class I milk at that plant.

(c) If moved to a regulated plant of a nonpool handler or to an unregulated

plant, and thence to another such plant, it shall be classified as Class I milk.

§ 904.18 *Responsibility of handlers in establishing the classification of milk.* In establishing the classification of any milk received by a handler from producers, the burden rests upon the handler who receives the milk from producers to account for the milk and to prove that such milk should not be classified as Class I milk.

DETERMINATION OF POOL PLANT STATUS

§ 904.20 *Basic requirements for pool plant status.* Subject to the provisions of § 904.21 each receiving plant shall be a pool plant in the first month in which the handler operates it in conformity with the basic requirements specified in this section, and shall thereafter be a pool plant for the remaining months of the marketing year in which it is operated by the same handler. The basic requirements for acquiring pool plant status shall be as follows:

(a) A majority of the dairy farmers delivering milk to the plant hold certificates of registration issued pursuant to Chapter 94, Sections 16C and 16G, of the Massachusetts General Laws.

(b) The handler operating the plant holds a license which has been issued by the milk inspector of a city or town in the marketing area, pursuant to Chapter 94, Section 40, of the Massachusetts General Laws, or a majority of the dairy farmers delivering milk to the plant are approved by such an inspector as sources of supply for milk for sale in his municipality.

(c) Class I milk in the form of milk is disposed of in the marketing area from the plant.

(d) The handler's total Class I milk in the marketing area exceeds 10 percent of his total receipts of fluid milk products other than cream.

§ 904.21 *Conditions resulting in nonpool plant status.* Each receiving plant shall be a nonpool plant under any of the following conditions:

(a) Each plant which has acquired pool plant status but from which no Class I milk in the form of milk is disposed of in the marketing area for two successive months in the marketing year shall be a nonpool plant in the second of the two months and for each consecutive succeeding month of the marketing year during which no such Class I disposition is made.

(b) Each nondistributing plant for which the market administrator has received on or before the 16th day of the preceding month the handler's written request for nonpool plant designation shall be a nonpool plant in each month of the marketing year to which the request applies.

(c) Each city distributing plant operated by a handler who operates no other plant which is a pool plant in the same month shall be a nonpool plant in any month in which the handler's total Class I milk in the marketing area does not exceed 10 percent of his total receipts of fluid milk products other than cream.

(d) Each plant which is operated as the plant of a producer-handler shall be a nonpool plant in any month in which it is so operated.

(e) Each plant which is operated as a New York order pool plant or as a plant from which emergency milk is received shall be a nonpool plant during the month or portion of a month of such operation.

(f) Each of a handler's plants which is a nonpool receiving plant during any of the months of August through March shall be a nonpool plant in any of the months of April through July of the same marketing year in which it is operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, unless its operation during August through March was in the handler's capacity as a producer-handler or as the operator of a New York order pool plant which had been acquired by him after June 30 of the immediately preceding marketing year.

§ 904.22 *Disposition of Class I milk in the form of milk in the marketing area.* For the purpose of determining whether a plant has met the conditions and requirements for being considered a pool plant, each plant from which milk is moved at some time during the month to another plant from which Class I milk in the form of milk is disposed of in the marketing area shall itself be considered to have made such a disposition, except that no movement of milk to any unregulated nondistributing plant shall be considered a disposition of Class I milk in the form of milk in the marketing area.

§ 904.23 *Total receipts of fluid milk products other than cream.* For the purpose of determining whether a plant has met the conditions and requirements for being considered a pool plant, each handler's total receipts of fluid milk products other than cream, referred to in this section as "total receipts", shall be determined as follows:

(a) For each month of the marketing year until and including the first month in which the handler is a pool handler, his total receipts shall be the receipts at all plants from which Class I milk in the form of milk is disposed of in the marketing area, except his receipts at any plant which fails to meet the applicable standards set forth in § 904.20 (a) and (b), or which is a nonpool plant pursuant to § 904.21 (b).

(b) For each of the other months of the marketing year, the handler's total receipts shall be the total receipts determined pursuant to paragraph (a) of this section plus the receipts at any other of his plants which is a pool plant in such month.

ASSIGNMENT OF RECEIPTS TO CLASSES

§ 904.25 *General assignment provisions.* Except as provided in §§ 904.26 through 904.29, all receipts of fluid milk products, other than receipts from producers, shall be assigned to Class I milk or Class II milk as follows:

(a) Receipts as to which Class II use is established shall be assigned to Class II milk.

(b) All other receipts shall be assigned to Class I milk.

§ 904.26 *Assignment of receipts of exempt milk.* All receipts of exempt milk shall be assigned to Class I milk.

§ 904.27 *Assignment of receipts from New York order pool plants.* Receipts from New York order pool plants shall be assigned to Class II milk, except as provided in § 904.28, and except that receipts during the months of August through March which are classified in Class I–A or I–B under the New York order shall be assigned to Class I milk.

§ 904.28 *Assignment of receipts of emergency milk.* Emergency milk received by a handler whose total use of Class II milk is in excess of 10 percent of the total volume of fluid milk products, other than cream, handled by him shall be assigned to Class II milk to the extent of such excess. For the purpose of this section, the handler's total Class II milk and total volume handled shall be the total of the respective quantities from the first day on which emergency milk is received by the handler during the month up to and including the last such day in the month. If the quantity of emergency milk as to which specific Class II use is established is greater than the quantity otherwise assigned to Class II milk pursuant to this section, such greater quantity shall be assigned to Class II milk. Receipts of emergency milk not assigned to Class II milk shall be assigned to Class I milk.

§ 904.29 *Assignment of other types of receipts.* (a) All receipts of outside milk shall be considered as receipts of Class II milk, and shall be assigned to that class without regard to the specific use of such receipts.

(b) All receipts of cream, and milk products other than fluid milk products, shall be assigned to Class II milk.

(c) All receipts of skim milk from producer-handlers shall be assigned to Class II milk.

REPORTS OF HANDLERS

§ 904.30 *Pool handlers' reports of receipts and utilization.* On or before the 8th day after the end of each month each pool handler shall, with respect to the fluid milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products at each plant from any other handler, assigned to classes pursuant to §§ 904.25 through 904.29;

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The respective quantities which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 904.15 through 904.18.

§ 904.31 *Reports of nonpool handlers.* Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that

any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

§ 904.32 *Reports regarding individual producers.* (a) Within 20 days after a producer moves from one farm to another, or starts or resumes deliveries to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

§ 904.33 *Reports of payments to producers.* Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer pay roll for such month, which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 904.34 *Outside cream purchases.* Each handler shall report, as requested by the market administrator, his purchases, if any, of bottling quality cream from nonpool handlers, showing the quantity and the source of each such purchase and the cost thereof at Boston.

§ 904.35 *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

§ 904.36 *Verification of reports.* For the purpose of ascertaining the correctness of any report made to the market administrator as required by this order or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this order;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

§ 904.37 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

MINIMUM CLASS PRICES

§ 904.40 *Class I prices.* For Class I milk received from producers, each pool handler shall pay, in the manner set forth in §§ 904.60 through 904.67 and subject to the differentials applicable pursuant to §§ 904.42 and 904.43 not less than the price per hundredweight determined for each month pursuant to this section. In determining the Class I price for each month the latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday, the latest figures available on the next succeeding work day shall be used.

(a) Divide by 0.98 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the year 1926 as the base period.

(b) Divide by 3 the sum of the three latest monthly indexes of department store sales in the Boston Federal Reserve District adjusted for seasonal variations, as reported by the Federal Reserve System, with the years 1935–39 as the base period, and divide the result so obtained by 1.26.

(c) Compute an index of grain-labor costs in the Boston milkshed in the following manner:

(1) Compute the simple average of the four latest weekly average retail prices per ton of dairy ration in the Boston milkshed, as reported by the United States Department of Agriculture, divided by 0.5044, and multiply by 0.6.

(2) For each of the States of Maine, Massachusetts, New Hampshire, and Vermont, compute the simple average, on a monthly equivalent basis, of the following farm wage rates reported by the United States Department of Agriculture: The rate per month with board and room; the rate per month with house; the rate per week with board and room; the rate per week without board or room; and the rate per day without board or room. To convert the weekly rates and the daily rate to monthly equivalents, multiply the weekly rates by 4.33 and the daily rate by 26. From the simple averages, compute a combined weighted average monthly rate, using the following weights: Maine, 10; Massachusetts, 6; New Hampshire, 7; and Vermont, 77. Divide the weighted average monthly rate by 0.6394, and multiply the result by 0.4.

(3) Add the results determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Divide by 3 the sum of the final results computed pursuant to the preceding paragraphs of this section. Express the result as a whole number by dropping fractions of less than one-half or by raising fractions of one-half or more to the next whole number. The result shall be known as the formula index.

(e) Subject to the succeeding paragraphs of this section, the Class I price per hundredweight for milk received from producers at plants located in the 201–210-mile zone shall be as shown in the following table.

CLASS I PRICE SCHEDULE

Formula index	Class I price per hundredweight		
	Jan., Feb., Mar., July, Aug., Sept.	Apr., May, June	Oct., Nov., Dec.
50–56	$1.69	$1.25	$2.13
57–63	1.91	1.47	2.35
64–70	2.13	1.69	2.57
71–77	2.35	1.91	2.79
78–84	2.57	2.13	3.01
85–90	2.79	2.35	3.23
91–97	3.01	2.57	3.45
98–104	3.23	2.79	3.67
105–111	3.45	3.01	3.89
112–118	3.67	3.23	4.11
119–125	3.89	3.45	4.33
126–132	4.11	3.67	4.55
133–139	4.33	3.89	4.77
140–146	4.55	4.11	4.99
147–152	4.77	4.33	5.21
153–159	4.99	4.55	5.43
160–166	5.21	4.77	5.65
167–173	5.43	4.99	5.87
174–180	5.65	5.21	6.09
181–187	5.87	5.43	6.31
188–194	6.09	5.65	6.53

If the formula index is more than 194 the price shall be increased at the same rate as would result from further extension of this table at the rate of extension in the six highest index brackets.

(f) The Class I price shall be 44 cents more than the price prescribed in paragraph (e) of this section if less than 33 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents above the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent increase as will result in a Class I price equal to the Class I price for the same month of the preceding year plus 88 cents.

(g) The Class I price shall be 44 cents less than the price prescribed in paragraph (e) of this section if more than 41 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents below the Class I price for the same month of the preced-

ing year, its application shall be limited to only such portion of the 44-cent reduction as will result in a Class I price equal to the Class I price for the same month of the preceding year minus 88 cents.

(h) Notwithstanding the provisions of the preceding paragraphs of this section, the Class I price for any of the months of March through June of each year shall not be higher than the Class I price for the immediately preceding month, and the Class I price for any of the months of September through December of each year shall not be lower than the Class I price for the immediately preceding month.

§ 904.41 *Class II prices.* For Class II milk received from producers, each pool handler shall pay, in the manner set forth in §§ 904.60 through 904.67 and subject to the differentials set forth in § 904.42 and § 904.43, and the adjustments applicable pursuant to § 904.44, not less than the price per hundredweight determined for each month pursuant to this section.

(a) Subject to § 904.43 (c), subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream, F. O. B. Boston, as reported by the United States Department of Agriculture for the month during which such milk is received, divide the remainder by 33, multiply by .98, and multiply the result by 3.7. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream prices reported for the latest three months and the monthly averages of the daily prices, using the mid-point of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above multiplied by 33 and 1.22 for the current pricing month.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk solids for human consumption, in carlots, F. O. B. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month, adjusted pursuant to paragraph (d) of this section. The result is the Class II price per hundredweight for milk received from producers at plants located in the 201–210 railroad freight mileage zone.

Month:	*Amount (cents)*
January and February	67
March and April	79
May and June	85
July	79
August and September	73
October, November, and December	67

(d) For each month following the first month for which the amount determined pursuant to this paragraph is greater than 5 cents, the amount to be subtracted pursuant to paragraph (c) of this section shall be reduced by any plus amount determined as follows:

(1) Compute the simple average of the prices reported by the United States Department of Agriculture for milk for manufacturing purposes, f. o. b. plants United States, for each of the 12 months ending with the preceding month, as adjusted to a 3.7 percent butterfat basis by using the butterfat differential applicable pursuant to § 904.63 for the respective months.

(2) Compute the simple average of the Class II prices effective in the 201–210 freight mileage zone for the same 12 months.

(3) Determine the amount, adjusted to the nearest one-half cent, by which the average price computed pursuant to subparagraph (1) of this paragraph, exceeds the average price computed pursuant to subparagraph (2) of this paragraph.

§ 904.42 *Zone price differentials.* The minimum prices determined pursuant to §§ 904.40 and 904.41 shall be subject to differentials based upon the zone location of the plant at which the milk was received from producers. For each country plant, the zone shall be determined in accordance with the railroad freight mileage distance to Boston from the railroad shipping point for such plant. Each city plant, regardless of such railroad freight mileage distance, shall be considered to be in the "City Plant" zone. The applicable zone differentials shall be those set forth in the following table, as adjusted pursuant to § 904.43.

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

A	B	C
Zone (miles)	Class I—Price differentials (cents per hundredweight)	Class II—Price differentials (cents per hundredweight)
City plant	+52.0	+38.1
41–50	+14.5	+4.2
51–60	+13.5	+4.0
61–70	+13.0	+3.7
71–80	+11.5	+3.5
81–90	+11.0	+3.2
91–100	+10.5	+3.0
101–110	+10.5	+2.9
111–120	+9.0	+2.6
121–130	+9.0	+2.4
131–140	+8.0	+2.1
141–150	+5.5	+1.6
151–160	+4.0	+1.3
161–170	+4.0	+1.2
171–180	+1.5	+0.6
181–190	+1.5	+0.4
191–200	0	+0.1
201–210	(1)	(1)
211–220	−4.0	−0.6
221–230	−4.5	−0.7
231–240	−5.5	−0.9
241–250	−5.5	−0.9
251–260	−6.5	−1.2
261–270	−7.0	−1.3
271–280	−7.5	−1.5
281–290	−8.5	−1.6
291–300	−9.5	−1.8
301–310	−13.0	−2.3
311–320	−13.0	−2.4
321–330	−14.0	−2.5
331–340	−14.0	−2.8
341–350	−15.0	−2.8
351–360	−15.0	−3.0
361–370	−15.0	−3.1
371–380	−15.5	−3.3
381–390	−15.5	−3.4
391 and over	−15.5	−3.5

[1] No differential.

§ 904.43 *Automatic changes in zone price differentials and other price factors.* In case the rail tariff for the transportation of milk in carlots in tank cars or for the transportation of cream in 40-quart cans in carlots of 100–199 cans, as published in New England Joint Tariff—M No. 6 and supplements thereto or revisions thereof, is increased or decreased, the zone price differentials set forth in the table in § 904.42 and other price factors set forth in § 904.41 and in § 904.63, shall be correspondingly increased or decreased in the manner and to the extent provided in this section. Such adjustments shall be effective beginning with the first complete month in which the changes in rail tariffs apply. For the purpose of this section, it shall be considered that the rail tariff applicable to city plants is zero.

(a) If such rail tariff on milk is changed, the differentials set forth in Column B of the table and the city plant differential in Column C shall be adjusted to the extent of any change in the difference between the rail tariff for mileage distances of 201–210 miles and for the other applicable distances. Such adjustments shall be made to the nearest one-half cent per hundredweight in Column B, and to the nearest one-tenth cent per hundredweight in Column C.

(b) If such rail tariff on cream is changed, the country plant zone differentials set forth in Column C of the table shall be adjusted to the extent of any change in the difference between the rail tariff for mileage distances of 201–210 miles and for the other applicable distances, divided by 9.05. Such adjustments shall be made to the nearest one-tenth cent per hundredweight.

(c) If such rail tariff on cream is changed, the rail tariff rate on cream for mileage distances of 201–210 miles times 1.03 and adjusted to the nearest one-half cent shall be used in place of 52.5 cents specified in § 904.41 and § 904.63.

§ 904.44 *Butter and cheese adjustment.* During the months of April, May, June, and July, the value of a pool handler's milk computed pursuant to § 904.50 shall be reduced by an amount determined as follows:

(a) Using the midpoint of any range as one price, compute the average of the daily prices for Grade A 92-score butter wholesale in the New York market which are reported during the month by the United States Department of Agriculture, and add 20 percent.

(b) Divide by 3.7 the amount determined pursuant to § 904.41 (a), and subtract from the quotient the amount determined pursuant to paragraph (a) of this section. The result is the butter and cheese differential.

(c) Determine the pounds of butterfat in Class II milk received from producers, which was processed into salted butter, Cheddar cheese, American Cheddar cheese, Colby cheese, washed curd cheese, or part skim Cheddar cheese at a plant of the first handler of such butterfat or at a plant of a second person to which such butterfat was moved.

(d) Subtract such portion of the quantity determined in paragraph (c) of this section as was made into salted butter and disposed of by the handler or such

second person in a form other than salted butter.

(e) Multiply the remaining pounds of butterfat determined pursuant to paragraph (d) of this section by the butter and cheese differential determined pursuant to paragraph (b) of this section.

§ 904.45 *Use of equivalent factors in formulas.* If for any reason a price, index, or wage rate, specified by this order for use in computing class prices and for other purposes is not reported or published in the manner described in this order, the market administrator shall use a price, index, or wage rate, determined by the Secretary to be equivalent to or comparable with the price which is specified.

§ 904.46 *Announcement of class prices and differentials.* The market administrator shall make public announcements of class prices and differentials as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday, he shall announce the Class I price on the next succeeding work day.

(b) He shall announce the Class II price and the butter and cheese differential on or before the 5th day after the end of each month.

§ 904.47 *Allocation of Class I milk to plants.* For the purpose of determining the respective quantities of Class I milk subject to the applicable zone differentials, each pool handler's Class I milk during the month, after excluding receipts assigned to Class I milk pursuant to §§ 904.25 through 904.29, shall be allocated to his plants as follows:

(a) His Class I milk first shall be considered to have been the receipts at his city plants of milk from producers' farms, and of outside milk.

(b) Thereafter, his Class I milk shall be considered to have been the receipts at his country plants of that milk received from producers' farms, and that outside milk, which was shipped as fluid milk products, other than cream, from each of his country plants, in the order of the nearness of the plants to Boston. However, shipments to plants located in the States of Maine, New Hampshire, Vermont, or New York, with respect to which utilization as Class II milk is established, shall not be allocated to Class I milk.

BLENDED PRICES TO PRODUCERS

§ 904.50 *Computation of value of milk received from producers.* For each month, the market administrator shall compute the value of milk received from producers which is sold, distributed, or used by each pool handler, in the following manner:

(a) Multiply the quantity of milk in each class by the price applicable pursuant to §§ 904.40, 904.41, and 904.42.

(b) Add together the resulting value of each class.

(c) Adjust the value determined in paragraph (b) of this section as provided in § 904.44.

§ 904.51 *Computation of the basic blended price.* The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective values of milk computed pursuant to § 904.50 and the payments required pursuant to § 904.66 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 904.61 (b) and 904.66 for milk received during each month since the effective date of the most recent amendment of this subpart;

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 904.61, 904.62, 904.66, and 904.67.

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials which are applicable pursuant to § 904.64;

(d) Subtract the total amount of cooperative payments required by § 904.72;

(e) Divide by the total quantity of milk received from producers for which a value is determined pursuant to paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 904.61 and 904.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at plants located in the 201–210 freight mileage zone, shall be known as the basic blended price.

§ 904.52 *Announcement of blended prices.* On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the differentials pursuant to § 904.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations, because of failure to make reports or payments pursuant to this subpart.

PAYMENTS FOR MILK

§ 904.60 *Advance payments.* On or before the 10th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month. The provisions of this section shall not apply to any handler who, on or before the 17th day after the end of the month, makes final payment as required by § 904.61 (a).

§ 904.61 *Final payments.* Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 904.50 as follows:

(a) On or before the 25th day after the end of each month, to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 904.63 and 904.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to, on or before the 23d day after the end of each month, or receiving from the market administrator, on or before the 25th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 904.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 904.50 as shown in a statement rendered by the market administrator on or before the 20th day after the end of such month.

§ 904.62 *Adjustments of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments pursuant to §§ 904.61 (b) and 904.66, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is payable by the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 904.61 (a) the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

§ 904.63 *Butterfat differential.* Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows: Subject to § 904.43 (c), subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, and divide the remainder by 330. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream prices reported for the latest three months and the monthly averages of the daily prices, using the mid-point of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Depart-

ment of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above, for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, multiplied by 33 and 1.22.

§ 904.64 *Location differentials.* The payments to be made to producers by handlers pursuant to § 904.61 (a) shall be subject to the differentials set forth in Column B of the table in § 904.42 as adjusted by § 904.43 and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located more than 40 miles but not more than 80 miles from the State House in Boston, there shall be added 23 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 904.40 and 904.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.

(b) With respect to milk delivered by a producer whose farm is located not more than 40 miles from the State House in Boston, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 904.40 and 904.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.

§ 904.65 *Other differentials.* In making the payments to producers set forth in § 904.61 (a), pool handlers may make deductions as follows:

(a) With respect to milk delivered by producers to a city plant which is located outside the marketing area and more than 14 miles from the State House in Boston, 10 cents per hundredweight;

(b) With respect to milk delivered by producers to a country plant, at which plant the average daily receipts of milk from producers are:

(1) Less than 17,000 but greater than 8,500 pounds, 4 cents per hundredweight, and

(2) 8,500 pounds or less, 8 cents per hundredweight.

§ 904.66 *Payments on outside milk.* (a) Within 23 days after the end of each month, each pool handler, buyer-handler, or producer-handler, whose receipts of outside milk are in excess of his total use of Class II milk after deducting receipts of cream, shall make payment on such excess quantity to producers, through the market administrator, at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 effective for the location or freight mileage zone of the plant at which the handler received the outside milk.

(b) Within 23 days after the end of each month, each handler who operates an unregulated plant from which outside milk is disposed of to consumers in the marketing area without intermediate movement to another plant shall make payment to producers, through the market administrator, on the quantity so disposed of. The payment shall be at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 effective for the location or freight mileage zone of the handler's plant.

§ 904.67 *Adjustment of overdue accounts.* Any balance due pursuant to §§ 904.61, 904.62, and 904.66, to or from the market administrator on the 10th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent effective the 11th day of such month.

§ 904.68 *Statements to producers.* In making the payments to producers prescribed by § 904.61 (a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month, and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 904.61 (a);

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 904.65 and 904.75, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

PAYMENTS TO COOPERATIVE ASSOCIATIONS

§ 904.71 *Application and qualification for cooperative payments.* Any cooperative association of producers duly organized under the laws of any state may apply to the Secretary for a determination that it is qualified to receive cooperative payments in accordance with the provisions of §§ 904.71 through 904.75. Upon notice of the filing of such an application, the market administrator shall set aside for each month, from the funds provided by handlers' payments to the market administrator pursuant to §§ 904.61, 904.62, 904.66, and 904.67, such amount as he estimates is ample to make payment to the applicant, and hold it in reserve until the Secretary has ruled upon the application. The applicant association shall be considered to be a qualified association entitled to receive such payments from the date fixed by the Secretary, if he determines that it meets all of the following requirements:

(a) It conforms to the requirements relating to character of organization, voting, dividend payments, and dealing in products of nonmembers, which are set forth in the Capper-Volstead Act and in the state laws under which the association is organized.

(b) It operates as a responsible producer-controlled marketing association exercising full authority in the sale of the milk of its members.

(c) It systematically checks the weights and tests of milk which its members deliver to plants not operated by the association.

(d) It guarantees payment to its members for milk delivered to plants not operated by the association.

(e) It maintains, either individually or together with other qualified associations, a competent staff for dealing with marketing problems and for providing information to its members.

(f) It constantly maintains close working relationships with its members.

(g) It collaborates with similar associations in activities incident to the maintenance and strengthening of collective bargaining by producers and the operation of a plan of uniform pricing of milk to handlers.

(h) It is in compliance with all applicable provisions of this subpart.

§ 904.72 *Cooperative payments.* On or before the 25th day after the end of each month, each qualified association shall be entitled to receive a cooperative payment from the funds provided by handlers' payments to the market administrator pursuant to §§ 904.61, 904.62, 904.66, and 904.67. The payment shall be made under the conditions and at the rates specified in this section, and shall be subject to verification of the receipts and other items upon which such payment is based.

(a) Each qualified association shall be entitled to payment at the rate of 1 cent per hundredweight on the milk which its producer members deliver to the plant of a handler other than a qualified association; except on milk delivered by a producer who is also a member of another qualified association, and on milk delivered to a handler who fails to make applicable payments pursuant to § 904.61 (b) and § 904.77 within ten days after the end of the month in which he is required to do so. If the handler is required by § 904.75 to make deductions from members of the association at a rate lower than 1 cent per hundredweight, the payment pursuant to this paragraph shall be at such lower rate.

(b) Each qualified association shall be entitled to payment at the rate of 2 cents per hundredweight on milk received from producers at a plant operated by that association.

§ 904.73 *Reports relating to cooperative payments.* Each qualified association shall, upon request by the market administrator, make reports to him with respect to its use of cooperative payments and its performance in meeting the requirements set forth as the basis for such payments, and shall file with him a copy of its balance sheet and operating statement at the close of each fiscal year.

§ 904.74 *Suspension of cooperative payments.* Whenever there is reason to believe that an association is no longer meeting the qualification requirements, the market administrator shall, upon request by the Secretary, suspend cooperative payments to it, and shall give the association written notice of the suspension. Such suspended payments shall be held in reserve until the Secre-

tary has, after notice and opportunity for a hearing, ruled upon the performance of the association.

§ 904.75 *Deductions from payments to members.* (a) Each association which is entitled to receive cooperative payments on milk which its producer members deliver to a handler other than a qualified association may file a claim with the handler for amounts to be deducted from the handler's payments to such members. The claim shall contain a list of the producers, an agreement to indemnify the handler in the making of the deductions, and a certification that the association has an unterminated membership contract with each producer, authorizing the claimed deduction.

(b) In making payments to his producers for milk received during the month, each handler shall make deductions in accordance with the association's claim, and shall pay the amount deducted to the association within 25 days after the end of the month.

ADMINISTRATION EXPENSE

§ 904.77 *Payments of administration expense.* Within 23 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this order. The payment shall be at the rate of 3 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, and shall apply to all of the handler's receipts, during the month, of milk from producers, of outside milk, and of exempt milk processed at a regulated plant.

OBLIGATIONS

§ 904.78 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 904.80 *Effective time.* The provisions of this subpart or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 904.81.

§ 904.81 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any of its provisions whenever he finds that this subpart or any of its provisions obstruct or do not tend to effectuate the declared policy of the act. This subpart shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 996.82 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 904.83 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 904.84 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any bureau or division of the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

[F. R. Doc. 51–10987; Filed, Sept. 11, 1951; 8:52 a. m.]

[7 CFR Part 934]

[Docket No. AO–83–A16]

HANDLING OF MILK IN LOWELL-LAWRENCE, MASS., MARKETING AREA

DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER AMENDING THE ORDER NOW IN EFFECT

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Andover, Massachusetts on April 11 and April 14, 1951, pursuant to notice thereof which was issued on March 14, 1951, (16 F. R. 2517) upon proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on July 13, 1951 filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision and opportunity to file written exceptions thereto which was published in the FEDERAL REGISTER on July 20, 1951, (16 F. R. 7025; Doc. 51–8324).

Rulings. Within the period reserved for exceptions, interested parties filed exceptions to certain of the findings, conclusions, and actions recommended by the Assistant Administrator. In arriving at the findings, conclusions, and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions, and actions decided upon herein are at variance with the exceptions, such exceptions are overruled.

The material issues presented on the record of the hearing were whether:

(1) The marketing area should be extended to include the city of Haverhill

and the towns of Groveland, Merrimac, and West Newbury, Massachusetts.

(2) Certain changes should be made in sequence of assignment with reference to milk received from country plants in consumer packages for Class I use.

(3) Any changes made in the basis of determining the Class II price and the butterfat differential under the Boston order should be incorporated in the Lowell-Lawrence order.

(4) The present city plant price for Class II milk should be revised.

(5) A method for computing a composite wage index for use in the Class I formula should be provided.

(6) Present location differentials paid to nearby producers should be eliminated.

(7) Required payments on outside milk should be eliminated under certain circumstances.

(8) Disposition from one city plant to another city plant shall be considered as a disposition of Class I milk for purposes of determining the volume of Class I disposition in the marketing area.

(9) The requirement that milk moved by buyer-handlers to other plants be classified as Class I should be revised.

(10) Credits should be granted for payments made by handlers to the Boston pool in computation of the pool handlers' obligation.

(11) The pooling provisions should be revised to exclude from the current pool computation milk of any nonpool handler in noncompliance with reference to the payment and reporting provisions.

(12) Certain other nonsubstantive changes should be made to delete obsolete language and to make language of the Lowell-Lawrence order conform with that of the Boston and other secondary market orders.

Findings and conclusions. From the evidence introduced at the hearing and the record thereof with respect to the aforementioned issues, it is hereby found and concluded that:

(1) The present limits of the Lowell-Lawrence marketing area should be extended to include the city of Haverhill and the towns of Groveland, Merrimac, and West Newbury, all in the State of Massachusetts. This area, constituting what is commonly referred to as the Haverhill market, lies adjacent to the present northeastern boundary of the Lowell-Lawrence marketing area and is supplied by dairy farmers from the same general supply area as Lowell and Lawrence. At the present time the Haverhill market operates as an individual handler pool under prices established by the Massachusetts State Milk Control Board. The utilization of the several handlers in the market varies substantially resulting, under the individual handler pool, in wide discrepancies in producer prices. The market has very limited facilities for handling surplus milk with the result that the bulk of the local surplus is handled through the New England Milk Producers' Association plant at Andover, largely as outside milk under the Lowell-Lawrence order. While certain Haverhill distributors, who would be handlers under the proposed extension, contend that there is no relationship between the two markets and that they have no surplus disposal problem, the record shows that these particular handlers actually operate on a short supply basis, depending on Lowell-Lawrence handlers for supplementary supplies as needed to meet their market requirements.

The proposal to include the Haverhill marketing area as a part of the Lowell-Lawrence marketing area was made by the New England Milk Producers' Association whose membership includes a majority of the producers in the Haverhill market. The extension of the marketing area would have little effect on present Lowell-Lawrence producers since the high average utilization of Haverhill handlers will tend to offset the cost of any location differentials which would be required to be paid to nearby Haverhill producers. While class prices in the two markets presently maintain a very close relationship, Haverhill producers will be assured of uniform prices, and greater market stability under a market-wide pool. By inclusion in the same market pool, transfers from Haverhill plants to Lowell-Lawrence pool plants would be permitted as receipts from regulated plants rather than as outside milk which can be received by Lowell-Lawrence handlers at the present time only as Class II milk or at a credit representing the Class II price.

(2) The proposal to amend the assignment provisions to provide that receipts of fluid milk products, other than cream and skim milk, at a city plant from a country plant, in containers of 8 quarts or less, be assigned to Class I ahead of receipts at the city plant direct from producers should not be adopted. Under the present provisions receipts from a country pool plant of another handler are assigned after receipts of producer milk and outside milk at the city plant. Manchester Dairy System, Inc., operator of a country plant, contends that this assignment sequence places an unreasonable burden on them in that it results in a Class II assignment to some milk which they dispose of in the form of fluid milk products in bottled form as Class I milk to city handlers, who in turn dispose of such milk as Class I milk direct to consumers in the marketing area.

Manchester Dairy System, Inc. does a substantial business with certain city handlers in the form of homogenized milk, fluid milk products in paper containers, and other Class I specialty items. Because these city handlers receive more milk at the city plants direct from producers than they dispose of in Class I, exclusive of purchases from Manchester Dairy System, Inc., some of the milk so purchased from Manchester is ultimately classified as Class II. Accordingly, there result numerous adjustments in billings between the cooperative and its customers, revisions in handlers' reports, and audit adjustment billings to the cooperative which must be passed on to city plant handlers.

The order provisions place no restrictions on Manchester Dairy System, Inc. with reference to resale prices. The homogenizing and bottling which they do for certain city plant handlers represents a service for which Manchester charges these city plant handlers. The proposal made by Manchester Dairy deals primarily with the question of the assignment sequence for milk received from country plants. The present assignment provisions are designed to discourage city plants from receiving Class I milk from country plants when milk is available at the city plant. A special treatment for Manchester Dairy System in its capacity as a country plant would obstruct this principle. To the extent that the problems of Manchester Dairy System relate to the difference between the city and country Class II prices, they are further considered under the discussion on the proposal to raise the Class II price.

(3) The proposal to make such changes in the Class II pricing provisions as are necessary to maintain the present relationship between the Lowell-Lawrence and Boston Class II prices should be adopted. The present basis of Class II pricing was established in recognition of the necessity of maintaining a direct relationship with prices under the Boston order and of having the Lowell-Lawrence Class II price move with the price of milk for similar use in the Boston market. For the same reasons that the present relationship was established it is essential that any changes made in the Boston Class II pricing be reflected in the Lowell-Lawrence Class II pricing. Similarly, the basis for determining the butterfat differential in the Lowell-Lawrence market has been the same as that used in other Federal orders effective in the New England regions. Accordingly, in the computation of the butterfat differential the weight per can of 40 percent cream should be considered 33 pounds, rather than the 33.48 pounds presently used. Certain producer interests proposed that in the computation of the butterfat differential the 1.5 cent transportation allowance be deleted. They contend that the factor represents a freight adjustment and since in the secondary markets the bulk of the milk is received at the city plants no allowance is justified. However, there is also a substantial portion of the total producer milk received at country plants. There appear to be certain advantages to maintaining one butterfat differential for all locations but whether it should be determined with or without the 1.5 cent factor is not clear from this record.

(4) The proposal for a 32-cent increase in the price of Class II milk delivered direct to city plants and utilized in the manufacture of products other than nonfat dry milk solids, condensed milk, and casein should not be adopted. Proponents claim that they are at a disadvantage in marketing Class II milk in the form of milk at city points because other handlers have Class II milk delivered directly to their city plants at a Class II price which is not as high as the country plant Class II prices plus the cost of shipping milk. The Class II price has been established at a level at both country and city points which should insure the acceptance of Class II milk by handlers even though a part of such milk must be disposed of in manu-

factured dairy products. If the proposed increase of 32 cents in the city plant price were adopted and did result in more country plant milk being shipped to the city for disposition as Class II the outlets for Class II milk from city plants would be thereby diminished. Since the record indicates that adequate facilities are available at country locations for the disposition of Class II milk it is not necessary for country plant handlers to incur the expense of shipping surplus milk to the city.

The country plant differentials which are established under the order represent the costs of shipping milk in carloads from country plants to the marketing area. Direct receipts from producers at city plants are ordinarily made in 40-quart cans loaded in a refrigerated truck. Therefore, unless the present country plant differentials are too high in relation to actual transportation costs it is unlikely that direct receipts at city plants can be accomplished from distant locations at less than country plant price plus carload shipping cost to the city plant. If a substantial volume of producer milk were moving directly to city plants for Class II use consideration should be given to whether the present country plant differentials are high and to whether some downward adjustment in these allowances would be warranted. However, the question of country plant differentials applicable to class prices and the blend price was not an issue at the hearing and therefore that issue cannot be considered at this time.

(5) The order should provide for the computation of a composite wage rate index which would be similar to the farm wage rate index which has been utilized in the calculation of the Class I formula price since the adoption of that formula April 1, 1948. The United States Department of Agriculture is no longer collecting information from which the monthly composite wage rates were computed and that series has been discontinued. Therefore, it is necessary to compute an equivalent composite farm wage rate. Farm wage rates are recorded quarterly by the United States Department of Agriculture as rates per month with board and room, per month with house, per week with board and room, per week without room or board, and per day without board or room. These rates should be expressed as a simple average monthly composite rate by converting the weekly rates to a monthly equivalent by multiplying by 4.33 weeks and by converting the daily rate to a monthly basis by using 26 working days per month. The simple average monthly composite farm wage rates for each of the four States used in the Class I formula should be combined according to the weights expressed in the order. In order to express this weighted average farm wage rate as an index on the same basis as that used in converting the previously published monthly composite farm wage rate to an index number for computation of the formula price, it is necessary to divide the milkshed average composite wage rate figure by 0.6394. This factor is determined from the average relationship of the milkshed average wage rate figure derived from the currently published data to this series which was previously published and used in the computation of the formula price.

(6) No change should be made at this time in the location differentials required to be paid to nearby producers. Certain producer representatives proposed that § 934.64 of the order, which sets forth the conditions for and the amount of location differentials to be paid, be deleted. However, in support of their proposal they presented no material facts different from those considered in establishing the present location differentials.

(7) No change should be made in the present order provisions with reference to the equalization payments required on outside milk. Proponents proposed that the order be amended to provide that the outside milk definition be amended to exclude outside milk received when an emergency has been declared under the Boston order. It does not necessarily follow that an emergency will exist in the secondary markets at any time that there is an emergency in the Boston market. If a provision of the nature proposed were desirable it should take the form of an independent determination with specific reference to the Lowell-Lawrence market.

(8) The order presently provides that any city plant meeting the basic qualifications for pooling shall be a pool plant in only those months in which at least 10 percent of its total receipts of fluid milk products, other than cream, is disposed of as Class I milk in the marketing area. Since different treatment is prescribed for pool and nonpool handlers it is essential that a handler be in a position to readily determine his status as a pool handler. Since the final classification of milk transferred between handlers is dependent on the actual utilization and source of all receipts in the transferee plant, it should be provided that for the purpose of determining the pool status of the shipping plant the transfers of fluid milk products, other than cream, from one city plant to another regulated city plant be considered a disposition of Class I milk in the marketing area, up to the quantity of Class I milk disposed of in the marketing area from such other plant.

(9) The proposal to revise the present order provisions which provide that milk moved by buyer-handlers to other plants be classified as Class I should not be adopted. Buyer-handlers get no milk direct from producers but purchase all of their requirements for fluid products from other handlers. Accordingly they are in a position to maintain a day to day balance between their requirements and procurement. The present order provisions do not limit purchases for Class II use in the buyer-handler's plant but merely restrict the transfer of milk to a third plant for other than Class I use. Class II milk is defined and priced for the purpose of removing necessary excesses from the market. It appears that buyer-handlers do not need to purchase Class II milk in excess of their own use. To encourage a buyer-handler to buy long and permit free transfer to nonpool plants for Class II use could adversely affect producers by resulting in a lower classification for such milk than might otherwise be available through other outlets.

(10) Provision should be made whereby Lowell-Lawrence pool handlers' payments for milk would be reduced by any amount which they are required to pay into the Boston pool on Class I milk distributed directly to consumers in the Boston marketing area. The proximity of the Lowell-Lawrence marketing area to the Boston marketing area makes it probable that an overlapping of sales between handlers in the two marketing areas will occur. Boston handlers can presently distribute Class I milk in the Lowell-Lawrence market without any payment to the Lowell-Lawrence pool. Provisions of the Boston order result in Class I sales by Lowell-Lawrence in the Boston marketing area being credited at the Class II price even though the Lowell-Lawrence order requires payment to producers at the Class I price. Because of the manner in which such sales are handled under the Boston order Lowell-Lawrence handlers are for practical purposes precluded under present provisions from distributing milk in the Boston marketing area.

(11) The proposal to exclude from each current pool computation milk of any nonpool handler who is not in compliance with the reporting and payment provisions for any prior period should be adopted. The order presently has such a provision with reference to pool handlers in noncompliance. However, the nonpool handler in violation because of nonreporting or nonpayment of assessments due continues to be carried in the current pool computation. Under such arrangement it is possible that such indebtedness to the pool could reach the point of threatening its solvency. Exclusion of the milk of such nonpool handlers from the current pool computation assures the solvency of the settlement fund and at the same time does not relieve such nonpool handler of any of his obligations or responsibilities under the order.

(12) The other proposals considered at the hearing involve nonsubstantive changes which would clarify the language of the present provisions. There was no opposition and it is accordingly concluded that they should be adopted.

General findings. (a) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity, specified in the said tentative marketing agreement upon which the hearings have been held; and

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) of the act are not reasonable in view of the price of feed, avail-

able supplies of feed, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, are such as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area," and "Order amending the order, as amended, regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirement of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

Order Directing the Conduct of a Referendum, Determination of Representative Period and Designation of Referendum Agent

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among producers (as defined in the order, as amended, and as hereby proposed to be further amended, regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area) who, during the month of June 1951 were engaged in the production of milk for sale in the marketing area specified in the aforesaid order, as amended, and as hereby proposed to be further amended, to determine whether such producers favor the issuance of the order, as amended, which is a part of this decision of the Secretary of Agriculture.

The month of June 1951 is hereby determined to be the representative period for the conduct of such referendum.

Richard D. Aplin is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this decision is issued.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 7th day of September 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the Lowell-Lawrence, Massachusetts, Marketing Area

§ 934.0 *Findings and determination*—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed amendment to the order, as amended, regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area shall be in conformity to and in compliance with the following terms and conditions:

1. Amend § 934.1 (b) by adding to the list of place names "Haverhill, Groveland, Merrimac, and West Newbury".

2. Delete paragraph (d) of § 934.12.

3. Renumber paragraphs (e), (f), and (g) of § 934.12 as paragraphs (d), (e), and (f), respectively.

4. Amend § 934.21 by adding a sentence as follows: "In determining whether a city plant has disposed of the required 10 percent of its receipts as Class I milk in the marketing area, the total quantity of fluid milk products, other than cream, moved from that plant to another city plant which is a regulated plant shall be considered as a disposition of Class I milk in the marketing area up to the quantity of Class I milk disposed of in the marketing area from the other plant."

5. In § 934.22 (b) delete the opening language, "Any country plant which is a pool plant continuously from the effective date of this subpart through February 1951 and any country plant which thereafter", and substitute therefor the following: "Any country plant which".

6. Amend § 934.40 (c) (2) by deleting the present language and substituting therefor the following:

(2) For each of the States of Maine, Massachusetts, New Hampshire, and Vermont, compute the simple average, on a monthly equivalent basis, of the following farm wage rates reported by the United States Department of Agriculture: The rate per month with board and room; the rate per month with house; the rate per week with board and room; the rate per week without board or room; and the rate per day without board or room. To convert the weekly rates and the daily rate to monthly equivalents, multiply the weekly rates by 4.33 and the daily rate by 26. From the simple averages, compute a combined weighted average monthly rate, using the following weights: Maine, 10; Massachusetts, 6; New Hampshire, 7; and Vermont, 77. Divide the weighted average monthly rate by 0.6394, and multiply the result by 0.4.

7. Delete § 934.41 and substitute therefor the following:

§ 934.41 *Class II price at city plants.* The Class II price per hundredweight at city plants shall be determined for each month pursuant to this section.

(a) Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the month, multiply by 0.98, and multiply the result by 3.7. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream prices reported for the latest three months and the monthly averages of the daily prices, using the mid-point of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above multiplied by 33 and 1.22 for the current pricing month.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk solids for human consumption, in carlots, f. o. b. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

Month:	Amount (cents)
January and February	67
March and April	79
May and June	85
July	79
August and September	73
October, November, and December	67

(d) For each month following the first month for which the amount determined pursuant to this paragraph is greater than 5 cents, the amount to be subtracted pursuant to paragraph (c) of this section shall be reduced by any plus amount determined as follows:

(1) Compute the simple average of the prices reported by the United States Department of Agriculture for milk for manufacturing purposes, f. o. b. plants United States, for each of the 12 months ending with the preceding month, as adjusted to a 3.7 percent butterfat basis by using the butterfat differential applicable to § 904.63 of the Boston order for the respective months.

(2) Compute the simple average of the Class II prices effective under the provisions of the Boston order in the 201–210 freight mileage zone for the same 12 months.

(3) Determine the amount, adjusted to the nearest one-half cent, by which the average price computed pursuant to subparagraph (1) of this paragraph, exceeds the average price computed pursuant to subparagraph (2) of this paragraph.

8. Amend § 934.50 by adding a new paragraph (g) as follows:

(g) Subtract any amount which the handler is required to pay on such milk pursuant to § 904.66 (b) of the Boston order.

9. Amend § 934.51 (a) by deleting the present language and substituting in lieu thereof the following:

(a) Combine into one total the respective net values of milk, computed pursuant to § 934.50, and payments required pursuant to §§ 934.65 and 934.66 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 934.61 (b), 934.65, and 934.66 for milk received during each month since the effective date of the most recent amendment to this subpart.

10. Amend § 934.52 (c) by deleting the period and adding in lieu thereof the following: "because of failure to make reports or payments pursuant to this subpart."

11. Amend § 934.63 by deleting the factor "33.48" and substituting therefor the factor "33."

12. Add to § 934.63 the following: "If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream prices reported for the latest three months and the monthly averages of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Department of Agriculture, times 1.22 and times 33. Then add to this amount the average of the butter prices described above, for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, multiplied by 33 and 1.22."

[F. R. Doc. 51–10988; Filed, Sept. 11, 1951; 8:53 a. m.]

[7 CFR Part 984]

Handling of Walnuts Grown in California, Oregon, and Washington

Notice of Proposed Rule Making With Respect to Salable, Surplus, and Withholding Percentages

Notice is hereby given that the Department is considering the issuance of the proposed administrative rules herein set forth pursuant to the provisions of Marketing Agreement No. 105 and Order No. 84 regulating the handling of walnuts grown in California, Oregon, and Washington (7 CFR Part 984), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Prior to the final issuance of such administrative rule, consideration will be given to data, views, or arguments pertaining thereto which are submitted in writing to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., and which are received not later than the close of business on October 8, 1951.

Pursuant to provisions of the aforesaid agreement and order the Walnut Control Board, the administrative agency thereunder, at a duly called meeting in Los Angeles on August 24, 1951, unanimously recommended that the salable percentage of merchantable walnuts for the 1951–52 marketing year be fixed at 80 percent and the surplus percentage at 20 percent. The Walnut Control Board also unanimously adopted the following estimates:

(1) The quantity of merchantable walnuts to be produced and packed during the 1951–52 marketing year will be 1,030,000 bags of 100 pounds each;

(2) The handler carryover as of August 1, 1951, was 78,400 bags of 100 pounds each of which 77,400 bags were certified for handling, subjected to surplus control and assessed under the 1950–51 program pursuant to the marketing order;

(3) The trade demand for the marketing year 1951–52 in the continental United States, Hawaii, Puerto Rico, Canal Zone, and Cuba, will be 850,000 bags of 100 pounds each.

According to the Control Board's estimates, the handler carryover of August 1, 1951, plus the salable quantity from the 1951 crop resulting from the use of the proposed percentages will be sufficient to satisfy the trade demand for merchantable walnuts and leave adequate carryover stocks on August 1, 1952.

It is provided in § 984.4 of the aforesaid marketing agreement and order that a withholding percentage shall be announced, that it shall be the ratio (measured as a percentage) of the surplus percentage to the salable percentage, adjusted to the nearest whole number. On the basis of the proposed surplus percentage of 20 percent and salable percentage of 80 percent, the withholding percentage would be 25 percent.

The Walnut Control Board's estimates and recommendation have been considered along with other pertinent information available to the Department, and appear reasonable.

Therefore, such proposed administrative rule is as follows:

§ 984.203 *Salable, surplus, and withholding percentages for merchantable walnuts during the 1951–52 marketing year.* For merchantable walnuts, during the 1951–52 marketing year, the salable percentage shall be 80 percent, the surplus percentage shall be 20 percent, and the withholding percentage shall be 25 percent.

Issued at Washington, D. C., this 7th day of September 1951.

[SEAL] Floyd F. Hedlund,
Acting Director,
Fruit and Vegetable Branch.

[F. R. Doc. 51–10989; Filed, Sept. 11, 1951; 8:53 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

Nippon Yusen Kaisha, et al.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended.

Agreement No. 7831, between Nippon Yusen Kaisha and United Fruit Company, covers transportation of general cargo under through bills of lading from Japan and the Philippine Islands to New York or New Orleans, with transshipment at Cristobal, C. Z.

Agreement No. 7603–C cancels the approved Silver-Hoegh Line Joint Service agreement (No. 7603) covering the trades from the United States Atlantic ports to ports in India, Ceylon and Burma; to ports on the Red Sea, Gulf of Aden and Persian Gulf; and to ports on the Mediterranean Sea (except Spanish Mediterranean ports), the Black Sea and adjacent waters.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to any of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: September 7, 1951.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 51-10963; Filed, Sept. 11, 1951; 8:49 a. m.]

[Docket No. M-21]

LYKES BROS. STEAMSHIP CO., INC.

NOTICE OF FURTHER HEARING ON APPLICATION TO BARE BOAT CHARTER GOVERNMENT-OWNED, WAR-BUILT, DRY-CARGO VESSELS FOR EMPLOYMENT IN THE GULF-EAST COAST OF UNITED KINGDOM, CONTINENT, AND MEDITERRANEAN SERVICES

Notice is hereby given that a further hearing will be held in the above-entitled proceeding at Washington, D. C., on September 25, 1951, at 10 o'clock a. m., in Room 4821, Department of Commerce Building, before Examiner Robert Furness, upon the application of Lykes Bros. Steamship Co., Inc., to bareboat charter five Victory type vessels for employment in its subsidized Gulf-East Coast of United Kingdom, Continent, Mediterranean services (Trade Route Nos. 21 and 13, respectively).

The purpose of the hearing is to receive evidence with respect to whether the services for which such vessels are proposed to be chartered is required in the public interest and would not be adequately served without the use therein of such vessels, and with respect to the availability of privately owned American-flag vessels for charter on reasonable conditions and at reasonable rates for use in such services. Evidence offered with respect to any restrictions or conditions that may under the statute be included in the charter if the application should be granted also will be received.

All persons having an interest in the application will be given an opportunity to be heard if present.

The parties may have oral argument before the examiner immediately following the close of the hearing, in lieu of briefs, and the examiner will issue a recommended decision. Parties may have seven (7) days within which to file exceptions to, or memoranda in support of, the examiner's recommended decision, but the Board reserves the right to determine whether oral argument on exceptions will be granted and whether briefs in connection therewith will be received.

Dated: August 31, 1951.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 51-10964; Filed, Sept. 11, 1951; 8:49 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 984583]

UTAH

ORDER PROVIDING FOR THE OPENING OF PUBLIC LANDS RESTORED FROM THE GREEN RIVER PROJECT

SEPTEMBER 6, 1951.

An order of the Bureau of Reclamation dated February 3, 1949, concurred in by the Associate Director, Bureau of Land Management, February 28, 1949, revoked the Departmental order of April 30, 1921, so far as it withdrew in the first form prescribed by section 3 of the Reclamation Act of June 17, 1902, (32 Stat. 388), the following described land in connection with the Green River Project, Utah, and provided that such revocation shall not affect the withdrawal of any other lands by said order or affect any other order withdrawing or reserving the lands described:

SALT LAKE MERIDIAN

T. 20 S., R. 16 E.,
Sec. 3, lot 15;
Sec. 10, lot 9.

The areas described aggregate 42.52 acres.

The lands are suitable for the production of cultivated crops by irrigation.

No applications for these lands may be allowed under the homestead, small tract, desert-land, or any other non-mineral public-land laws, unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, and selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands affected by this order shall be subject only to (1) application under the homestead or the desert-land laws or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a), as amended, by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279-284), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this order shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this order, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this order, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Land and Survey Office, Salt Lake City, Utah, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the desert-land laws and the said Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the Manager, Land and Survey Office, Salt Lake City, Utah.

WILLIAM PINCUS, *Acting Director.*

[F. R. Doc. 51-10933; Filed, Sept. 11, 1951; 8:45 a. m.]

Petroleum Administration for Defense

NEW HAMPSHIRE

NOTICE OF CERTIFICATION REGARDING RESTRICTIONS OF NATURAL GAS

Take notice that the Public Utilities Commission of the State of New Hampshire has certified to the President that it has authority to restrict the use of natural gas and is exercising that authority to the extent necessary to accomplish the objectives of the Defense Production Act of 1950. As the result of the above-described certification, and pursuant to section 704, Defense Production Act of 1950, as amended, the restrictions imposed by section 3, PAD Order No. 2, August 14, 1951, 16 F. R. 8111, are hereafter inapplicable in the State of New Hampshire.

A. P. FRAME,
Acting Deputy Administrator, Petroleum Administration for Defense.

[F. R. Doc. 51-11021; Filed; Sept. 10, 1951; 5:03 p. m.]

DEPARTMENT OF COMMERCE

National Production Authority

[NPA Delegation 1, Supp. 1 as amended September 11, 1951]

SECRETARY OF DEFENSE

DELEGATION OF FURTHER AUTHORITY AS TO CERTAIN PROGRAMS

NPA Supp. 1, dated June 15, 1951, to Del. 1 is hereby amended by revising paragraph 1 (a) to authorize the Department of Defense to reschedule deliveries of materials required in support of the Department's ships and tank-automotive programs, in addition to the aircraft program; and by making certain other clarifying changes. As so amended, Supp. 1 to Del. 1 reads as follows:

1. This amended supplement to NPA Del. 1 is issued under the authority granted by the Defense Production Act of 1950, as amended. The Secretary of Defense has been delegated certain authority under NPA Del. 1. In addition to such authority, there is hereby delegated to the Secretary of Defense the following authority:

(a) To reschedule deliveries of materials which are required in support of the following Department of Defense programs: (1) Aircraft Program (DO-A1), (2) Ships Program (DO-A3), and (3) Tank-Automotive Program (DO-A4): Provided, however, That such authority (1) shall be applicable only to the rescheduling of deliveries among rated orders bearing the same program identification issued by or under the authority of the Secretary of Defense; and (2) shall be applicable only to the extent that such rescheduling of deliveries requires no change in production schedules of the person making the deliveries.

(b) To redelegate the authority hereby delegated to appropriate agencies of the Department of Defense or its authorized agents.

2. The exercise of this authority shall conform to the terms of the regulations and orders of the National Production Authority and to such priorities and allocations policy directives as may be issued by the Munitions Board to implement policies and procedures issued by the National Production Authority.

This supplement as amended shall take effect on September 11, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-11019; Filed, Sept. 10, 1951; 4:45 p. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNERS EMPLOYMENT CERTIFICATES

NOTICE OF ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Supp. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear and Other Odd Outerwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended September 25, 1950; 15 F. R. 5701; 6326).

Anjac Sportswear, Inc., 67 Ward Street, Brockton, Mass., effective 9/4/51 to 9/3/52; 10 percent of the productive factory workers or 10 learners, whichever is greater (ladies' garments).

Jack Borgenicht, Inc., Mill and Freida Streets, Dickson City, Pa., effective 8/31/51 to 8/30/52; for normal labor turnover, 10 percent of the productive factory workers (ladies' and children's dresses).

Hamurnat Manufacturing Corp., 1324 Main Street, Peckville, Pa., effective 8/29/51 to 2/28/52; 10 learners for expansion purposes (men's and boys' sport jackets).

The Hercules Trouser Co., Jackson, Ohio, effective 8/31/51 to 3/2/52; 65 learners for expansion purposes (men's and boys' single pants).

Little Bitty, 1421 Wallace Street, Philadelphia 30, Pa., effective 8/28/51 to 8/27/52; for normal labor turnover, 10 percent of the productive factory force or 10 learners, whichever is greater (babyalls).

Morris Sportswear Co., 219 Arch Street, Nanticoke, Pa., effective 8/31/51 to 8/30/52; for normal labor turnover, 10 percent of the productive factory workers or five learners, whichever is greater (ladies' sportswear).

Penn Fashions, Inc., 240 Pennsylvania Avenue, Scranton, Pa., effective 8/30/51 to 2/29/52; 15 learners may be employed for expansion purposes. This certificate does not authorize the employment of learners at subminimum wage rates in the manufacture of skirts or lined jackets (women's dresses and sportswear).

W. E. Stephens Manufacturing Co., Inc., Carthage, Tenn., effective 9/1/51 to 2/29/52; 50 learners may be employed for expansion purposes (cotton dungarees).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised January 25, 1950; 15 F. R. 283).

Acclaim Hosiery Mills, Inc., Hartsville, S. C., effective 8/31/51 to 8/30/52; five learners.

Cross Hill Hosiery Mill, Inc., Cross Hill, S. C., effective 8/31/51 to 8/30/52; five learners.

Lorimer Finishing Mills, Inc., 109 Hawkins Street, Burlington, N. C., effective 8/28/51 to 8/27/52; five learners.

Portage Hosiery Co., 107 East Mullett Street, Portage, Wis., effective 7/29/51 to 7/28/52; 5 percent of the total number of productive factory workers (replacement certificate).

Van Raalte Co., Inc., Murphy, N. C., effective 8/28/51 to 4/27/52; 16 learners (expansion certificate).

Van Raalte Co., Inc., Franklin, N. C., effective 9/8/51 to 9/7/52; 5 percent of the total number of productive factory workers.

Glove Industry Learner Regulations (29 CFR 522.220 to 522.231, as amended October 26, 1950; 15 F. R. 6888).

Stott & Son Corp., Winoma, Minn., effective 8/31/51 to 8/30/52; 10 learners.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

Carlton Plastics, Inc., 247 South Third Street, Philadelphia, Pa., effective 9/3/51 to 3/2/52; 10 percent of the total number of productive factory workers; machine operators and handsewers; 320 hours @ 60 cents per hour (plastic aprons).

Johnson Electric Motor & Manufacturing Co., 406 Cotton Street, Shreveport, La., effective 8/31/51 to 2/28/52; six learners; automatic electric unit rebuilder; 300 hours; not less than 65 cents per hour for the first 150 hours and at least 70 cents per hour for the remaining 150 hours (rebuilding generators, distributors, etc.).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 4th day of September 1951.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 51-10935; Filed, Sept. 11, 1951; 8:45 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-1116, G-1240, G-1317, G-1344, G-1417, G-1152, G-1415, G-1379, G-1457, G-1509, G-1616, G-1659, G-1625]

PANHANDLE EASTERN PIPE LINE CO. ET AL.

NOTICE OF OPINION AND ORDER

SEPTEMBER 6, 1951.

In the matters of Panhandle Eastern Pipe Line Company, Docket Nos. G-1116, G-1240, G-1317, G-1344, G-1417; City of Port Huron, City of Marysville, City of St. Clair, Michigan municipal corporation, Docket No. G-1152; Southeastern Michigan Gas Company, Docket No. G-1415; Michigan Consolidated Gas Company, complainant, v. Panhandle Eastern Pipe Line Company, defendant, Docket No. G-1379; Northern Indiana Fuel and Light Company, Docket No. G-1457; Missouri Central Natural Gas Company, Docket No. G-1509; The Central West Utility Company, Docket No. G-1616; City of Auburn, Illinois, Docket No. G-1659; National Utilities Company of Michigan, Docket No. G-1625.

Notice is hereby given that, on August 31, 1951, the Federal Power Commission issued Opinion No. 218 and interim order establishing service rules and regulations, entered August 31, 1951, in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-10936; Filed, Sept. 11, 1951; 8:45 a. m.]

[Dockets Nos. G-1570, G-1578, G-1657, G-1672, G-1681]

TEXAS GAS TRANSMISSION CORP. ET AL.

ORDER RESCINDING ORDER DENYING MOTIONS FOR OMISSION OF INTERMEDIATE DECISION PROCEDURE, FOR FILING BRIEFS, AND FOR ORAL ARGUMENT BEFORE COMMISSION

AUGUST 31, 1951.

In the matters of Texas Gas Transmission Corporation, Docket Nos. G-1570, G-1578, and G-1657; Louisville Gas and Electric Company, Docket No. G-1672; United Gas Pipe Line Company, Docket No. G-1681.

By order entered August 15, 1951, the Commission denied the oral motions made during the course of hearings in these proceedings on August 9, 1951, by Texas Gas Transmission Corporation (Texas Gas) and United Gas Pipe Line Company (United) that the Commission omit the intermediate decision procedure and forthwith render the final decision in these matters. By the same order, the Commission also denied alternative motions for filing of briefs and for oral argument before the Commission made by National Coal Association and United Mine Workers of America (jointly), Anthracite Institute, Fuels Research Council, Inc., and on behalf of the Staff of the Commission.

On August 16, 1951, Texas Gas filed a motion, which was supplemented on August 22, 1951, requesting that the Commission reconsider and reverse its order of August 15, 1951, herein, approve September 12, 1951, as the date for the simultaneous filing of main briefs, and, in lieu of reply briefs, set oral argument before the Commission on September 17, 1951, or shortly thereafter.

Texas Gas alleges that unless it receives a certificate of public convenience and necessity herein "by approximately the middle of September 1951," it will be impossible for it to construct and complete a portion of the facilities for which authorization is requested, namely, 85 miles of 26-inch loop line and 12,240 horsepower of additional compressor capacity, which is scheduled for completion for this fall. It further alleges that unless such partial construction is completed for this fall, Texas Gas will be unable, during the 1951-1952 winter season, to deliver approximately 37,000 Mcf per day of the peak day requirements of its firm customers, and such inability will cause hardship to a vast number of consumers dependent upon Texas Gas' utility customers. Also, Texas Gas alleges that, without the construction scheduled for this fall, it will be unable to deliver up to 30,000 Mcf a day, on an interruptible basis, to The Ohio Fuel Gas Company, which volume could be used by Columbia Gas System, Inc. for the alleviation of gas shortages in the Appalachian area. In its supplement, Texas Gas states that it will be able to complete the construction of a part of the facilities scheduled for completion for this fall in the event it receives a certificate by or shortly after October 1, 1951.

In the above-mentioned supplement to Texas Gas' motion, the applicant states that it is now paying large commitment fees on its bond financing. Applicant also refers to the fact that its financing agreements provide for their termination in the event a certificate is not issued to Texas Gas as applied for at Docket No. G-1578. It also appears that such new financing agreements are the result of negotiated sales and that the intended purchasers are for the most part present holders of bonds of this applicant. Thus, it would appear that Texas Gas, and probably others, regards its bond financing as an accomplished fact and not a matter at issue in these proceedings. For these, and other reasons, we believe it appropriate that we should emphasize at this time that we recognize as an issue in this proceeding the question of whether the terms and conditions of such negotiated financing arrangements are in the public interest, as represented both by the consumers and the various classes of investors in this corporation, or whether public interest would be better served if this applicant should be required to obtain such financing through open and competitive bidding. In connection with the foregoing, however, it is emphasized that the Commission's action herein is confined to the procedural questions before us.

On August 23, 1951, Tennessee Valley Authority (TVA) filed a joinder in the said motion of Texas Gas, stating, among other things, that time is of the essence in the procurement of steel pipe required by TVA for the lateral line to serve its Johnsonville, Tennessee, steam plant. Other requests for reconsideration of such order entered August 15, 1951, have been received from several State and municipal officials and agencies, and also from certain parties to this proceeding.

On August 23, 1951, objections to the motion for reconsideration were filed jointly by Fuels Research Council, Inc., National Coal Association, United Mine Workers of America, Chesapeake and Ohio Railway Company, Railway Labor Executives Association, and Anthracite Institute. The objectors assert that, in view of the size of the record, the number of exhibits, the numerous important and complex issues involved, the Commission would not be justified in reversing its action of August 15, 1951. Said objectors also allege that their counsel also represents certain interveners in another proceeding before the Commission which is set for hearing in Billings, Montana, commencing on September 10, 1951. Such objectors state that they have reason to anticipate that such hearings will continue for at least two weeks, which would preclude said counsel from participation in an oral argument in these instant proceedings if such argument were scheduled as requested by Texas Gas.

The hearings in these consolidated proceedings were concluded on August 16, 1951, at which time the Presiding Examiner fixed September 12, 1951 as the date for the simultaneous filing of all main briefs, and October 4, 1951 as the date for filing reply briefs.

Upon consideration of the said motion of Texas Gas, as supplemented, the joinder of TVA, the objections of the intervening coal, railway and labor interests, and upon reconsideration of the Commission's order of August 15, 1951, the Commission finds:

(1) Good cause has been shown for rescission by the Commission of its order of August 15, 1951, denying motions for the omission of the intermediate decision procedure herein, for filing briefs, and for oral argument before the Commission.

(2) Adherence to the intermediate procedure in these proceedings may so delay the commencement of the construction of the portion of the proposed facilities, referred to in said motion, if they are hereafter authorized, as to preclude the completion thereof for operation during the coming winter season.

(3) It is in the public interest that a prompt decision be had in these matters in order that the facilities proposed by Texas Gas, or at least that portion thereof referred to in said motion, if ultimately authorized, may be completed without avoidable delay.

(4) The issues presented by the application of Louisville Gas and Electric Company in Docket No. G-1672 are interrelated with that phase of the application of Texas Gas in Docket No. G-1578, wherein the latter company requests that it be authorized to deliver and sell natural gas to Ohio River Pipeline Corporation, applicant in Docket No. G-1772, for further delivery and sale to Indiana Gas & Water Company, Inc., for resale in and near Jeffersonville, Clarksville, and New Albany, Indiana. Indiana Gas & Water Company, Inc. is presently receiving gas directly from Louisville Gas and Electric Company for distribution in those areas,

and the latter company proposes to abandon such service. Therefore, a decision as to such aspect of the application of Texas Gas will also necessitate a decision upon the application of Louisville Gas and Electric Company.

(5) Due and timely execution of its functions imperatively and unavoidably requires that the intermediate decision procedure in these consolidated proceedings be omitted and that the Commission forthwith render the final decision herein.

The Commission orders:

(A) The above-mentioned order of the Commission entered on August 15, 1951, be and it is hereby rescinded; and the intermediate decision procedure be and it is hereby omitted herein in accordance with the provisions of § 1.30 (18 CFR 1.30) of the Commission's rules of practice and procedure.

(B) September 17, 1951, is hereby fixed as date for the the simultaneous filing of all main briefs, and oral argument be had before the Commission in lieu of reply briefs on September 20, 1951, at 10:00 a. m. (e. d. s. t.) in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue, N. W., Washington, D. C. All parties to these proceedings shall notify the Secretary of the Commission on or before September 14, 1951, with respect to the time they deem necessary for argument.

Date of issuance: September 4, 1951.

By the Commission.

[SEAL] J. H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 51-10937; Filed, Sept. 11, 1951; 8:46 a. m.]

[Docket No. E-6372]

INDIANA & MICHIGAN ELECTRIC CO. AND PUBLIC SERVICE CO. OF INDIANA, INC.

NOTICE OF FINDINGS AND ORDER

SEPTEMBER 6, 1951.

Notice is hereby given that, on August 29, 1951, the Federal Power Commission issued its order, entered August 28, 1951, authorizing and approving sale and merger or consolidation of facilities, in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-10942; Filed, Sept. 11, 1951; 8:47 a. m.]

[Docket No. G-1411]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF FINDINGS AND ORDER

SEPTEMBER 6, 1951.

Notice is hereby given that, on August 30, 1951, the Federal Power Commission issued its order, entered August 28, 1951, amending order issuing certificate of public convenience and necessity, in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-10943; Filed, Sept. 11, 1951; 8:47 a. m.]

[Docket No. G-1690]

CALIFORNIA PACIFIC UTILITIES CO.

NOTICE OF FINDINGS AND ORDER

SEPTEMBER 6, 1951.

Notice is hereby given that, on August 29, 1951, the Federal Power Commission issued its order, entered August 28, 1951, issuing certificate of public convenience and necessity, in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-10944; Filed, Sept. 11, 1951; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26383]

MOLASSES, RESIDUUM AND SYRUP FROM POINTS IN LOUISIANA TO ST. LOUIS, MO. AND EAST ST. LOUIS, ILL.

APPLICATION FOR RELIEF

SEPTEMBER 7, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: W. P. Emerson, Jr., Agent for the Chicago, Rock Island and Pacific Railroad Company, St. Louis-San Francisco Railway Company and Texas and New Orleans Railroad Company.

Commodities involved: Blackstrap molasses, distillery molasses residuum and citrus pomace final syrup, in tank-car loads.

From: Points in Louisiana.

To: St. Louis, Mo., and East St. Louis, Ill.

Grounds for relief: Circuitous routes. Market competition.

Schedules filed containing proposed rates: W. P. Emerson, Jr., Agent, ICC No. 395, supp. 50.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-10957; Filed, Sept. 11, 1951; 8:48 a. m.]

[4th Sec. Application 26384]

MOLASSES, RESIDUUM AND SYRUP FROM POINTS IN LOUISIANA TO ST. LOUIS, MO.

APPLICATION FOR RELIEF

SEPTEMBER 7, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the aggregate of intermediates provision of section 4 (1) of the Interstate Commerce Act.

Filed by: W. P. Emerson, Jr., Agent, for the Chicago, Rock Island and Pacific Railroad Company, St. Louis-San Francisco Railway Company and Texas and New Orleans Railroad Company.

Commodities involved: Blackstrap molasses, distillery molasses residuum and citrus pomace final syrup, in tank-car loads.

From: Points in Louisiana.

To: St. Louis, Mo., and East St. Louis, Ill.

Grounds for relief: Circuitous routes. Market competition.

Schedules filed containing proposed rates: W. P. Emerson, Jr., Agent, ICC 395, supp. 50.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

F. R. Doc. 51-10958; Filed, Sept. 11, 1951; 8:48 a. m.]

[4th Sec. Application 26385]

FERRO-MANGANESE FROM NORTH ATLANTIC PORTS TO POINTS IN PENNSYLVANIA, MICHIGAN, INDIANA, AND WISCONSIN

APPLICATION FOR RELIEF

SEPTEMBER 7, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. W. Boin and I. N. Doe, Agents, for carriers parties to fourth section application No. 25997.

Commodities involved: Ferro-manganese, carloads.

From: North Atlantic Ports.

To: Specified points in Pennsylvania, Trenton, Mich., Gary, Ind., and South Milwaukee, Wis.

Grounds for relief: Competition with rail carriers, to maintain grouping, to maintain port relations.

Schedules filed containing proposed rates:

Supp. No.	Railroad	ICC No.
1	DL & WRR	24421
2	LV RR	C-9270
1	Reading Co	2333
	Agents	
96	R. B. Le Grande	238
45	I. N. Doe	591
25	C. W. Boin	A-914

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-10959; Filed, Sept 11, 1951; 8:48 a. m.]

[4th Sec. Application 26386]

COTTONSEED HULL SHAVINGS PULP FROM POINTS IN TENNESSEE TO CELCO AND PEPPER, VA.

APPLICATION FOR RELIEF

SEPTEMBER 7, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for:

Atlantic Coast Line Railroad Company.
Chattanooga, Traction Company.
The Cincinnati, New Orleans and Texas Pacific Railway Company.
Georgia Rail Road & Banking Company, operated as the Georgia Railroad by Lessees: Atlantic Coast Line Railroad, and Louisville and Nashville Railroad Company.
The Nashville, Chattanooga & St. Louis Railway.
Seaboard Air Line Railroad Company.
Southern Railway Company, and the Virginian Railway Company.

Commodities involved: Cottenseed hull shavings pulp or cotton linters pulp, carloads.

From: Chattanooga, Jersey, McCarty, Memphis, North Chattanooga and Tyner, Tenn.

To: Celco and Pepper, Va.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-10960; Filed, Sept. 11, 1951; 8:48 a. m.]

[4th Sec. Application 26387]

LIVESTOCK FROM WESTERN TRUNK LINE TERRITORY TO THE SOUTH

APPLICATION FOR RELIEF

SEPTEMBER 7, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for carriers parties to Agent D. Q. Marsh's tariff ICC No. 3664 and Agent C. A. Spaninger's tariff ICC No. 1087.

Commodities involved: Livestock, carloads.

From: Points in western trunk-line territory.

To: Points in southern territory.

Grounds for relief: Competition with rail carriers, to maintain grouping, rates over various routes equalized with lowest combination of rates applicable over Mississippi River crossings, Memphis, Tenn., and south.

Schedules filed containing proposed rates: D. Q. Marsh, ICC No. 3664, supp. 87, C. A. Spaninger, ICC No. 1087, supp. 42.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-10961; Filed, Sept. 11, 1951; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2684]

MISSISSIPPI GAS CO.

ORDER AUTHORIZING ISSUANCE AND SALE OF NOTES

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of September A. D. 1951.

Mississippi Gas Company ("Mississippi"), a gas utility subsidiary of Southern Natural Gas Company, a registered holding company, having filed a declaration with this Commission pursuant to section 7 of the Public Utility Holding Company Act of 1935 ("act") with respect to the following transactions:

Mississippi proposes to issue and sell on or before September 15, 1951, to The Chase National Bank of the City of New York its unsecured note in the principal amount of $500,000. The note will bear interest at the rate of 2¾ percent per annum and will mature one year after date of issue. The note may be prepaid, in whole or in part, without penalty or premium. Mississippi proposes to use the proceeds from such loan to pay off its present $200,000 note due September 15, 1951, and to finance the construction of additions to its properties and to reimburse its treasury for working capital heretofore expended for construction.

The declarant states that no fees, commissions or other remunerations are to be paid in connection with the issuance of the note and estimates its miscellaneous expenses at approximately $500.

Declarant requests that the Commission's order herein become effective forthwith upon issuance.

Said declaration having been filed on August 8, 1951, and an amendment having been filed on August 20, 1951, notice of filing having been duly given in the form and manner prescribed in Rule U-23 under said act and the Commission not having received a request for hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said declaration, as amended, that the applicable provisions of the act and the rules and regulations thereunder have been satisfied, that there is no basis for adverse findings, that the estimated fees and expenses are not unreasonable, and deeming it appropriate in the public interest and in the interest of investors or consumers to permit said declaration, as amended, to become effective forthwith:

It is ordered, Pursuant to Rule U-23 of the applicable provisions of the Act

and subject to the terms and conditions of Rule U-24, that said declaration, as amended, be, and the same hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-10938; Filed, Sept. 11, 1951; 8:46 a. m.]

[File No. 70-2675]

UNITED GAS CORP.

ORDER AUTHORIZING THE ACQUISITION OF PRIOR PREFERRED PROMISSORY NOTES AND SHARES OF COMMON STOCK OF A NON-UTILITY COMPANY

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of September A. D. 1951.

United Gas Corporation ("United"), a gas utility subsidiary company of Electric Bond and Share Company, a registered holding company, having filed an application pursuant to sections 9 (a) (1), 10 (a) (1), 10 (b) and 10 (c) of the Public Utility Holding Company Act of 1935 regarding the following transactions:

United proposes to acquire 115,845 units (each unit consisting of a $10,000 Prior Preferred 6 Percent Promissory Note and 75 shares of common stock, par value $1.00 per share) from Carthage Hydrocol, Inc. ("Hydrocol"), for a cash consideration of $1,167,138.37.

This Commission by orders dated March 14, 1946, March 8, 1948, September 16, 1949, and December 5, 1950 (Holding Company Act Releases Nos. 6478, 8022, 9344 and 10264) authorized the purchase by United of certain notes and shares of common stock of Hydrocol. Hydrocol, at a cost of approximately $42,000,000 has completed the construction of a plant near Brownsville, Texas, for the purpose of manufacturing gasoline from natural gas by a synthetic process known as the "Hydrocol Process". The cost of construction, together with funds for working capital and other corporate purposes, was obtained by means of a loan from the Reconstruction Finance Corporation ("RFC") in the amount of $18,500,000 and through the issuance and sale by Hydrocol to certain selected subscribers, including United, of units, each consisting of one $10,000 6 Percent Promissory Note and 75 shares of common stock, $1.00 par value. There are presently outstanding 2,250 units comprising $18,237,500 principal amount of 6 Percent Promissory Notes due October 1, 1960, $4,262,500 of Preferred 6 Percent Promissory Notes due October 1, 1960, and 200,625 shares of common stock. All of the notes are subordinate to the indebtedness owing to RFC and the 6 Percent Preferred Notes are preferred as to interest and principal over the 6 Percent Promissory Notes.

Of the outstanding securities of Hydrocol, United owns $1,950,000 principal amount of 6 Percent Promissory Notes, $639,250 principal amount of Preferred 6 Percent Promissory Notes, and 19,419⅜ shares (9.68 percent) of the common stock.

Hydrocol is now offering subscriptions to 550 additional units, consisting in the aggregate of $5,500,000 principal amount of Prior Preferred 6 Percent Promissory Notes and 41,250 shares of common stock, to present holders of its notes and common stock on the basis of their respective holdings at June 1, 1951. On this basis, United is entitled to subscribe for 63.295 units. However, an additional subscription of 52.550 units is necessary because of the failure of all other stockholders, except The Texas Company, to exercise their subscription rights. The Texas Company proposes to subscribe for the remaining 434.155 units. The notes proposed to be issued will be preferred as to principal and interest over all outstanding Promissory Notes and Preferred Promissory Notes but will rank subordinate to the indebtedness owing from Hydrocol to the RFC. In order to accomplish this United and each of the other security holders of Hydrocol propose to submit the Notes and Preferred Notes held by them for overstamping to evidence the proposed subordination.

Upon consummation of the proposed transaction, Hydrocol will have 241,875 shares of common stock outstanding, of which United will own 28,107¾ shares (11.62 percent).

The application states that Hydrocol will use the proceeds from the sale amounting to $5,500,000, together with $2,400,000 to be realized from the sale of processed products, as follows: (1) $900,000 to cover expenditures to March 31, 1951, and to maintain working capital of $1,500,000 required by RFC; (2) $3,600,000 to provide for overhead and interest to RFC to December 31, 1951; and (3) $3,400,000 to provide for additional equipment.

United and its two wholly owned subsidiaries, United Gas Pipe Line Company and Union Producing Company, are principally engaged in the production, purchasing, transportation, distribution and sale of natural gas, and Union Producing Company is the owner of extensive gas reserves. The application states that the Hydrocol Process can possibly result in important benefits to the United System by increasing the value of its gas reserves and widening the market for its products. The application further states that representation on the Board of Directors of Hydrocol (each subscriber being entitled to one member on the board of directors of Hydrocol for each 100 units owned) would permit a close appraisal of the general and technical operations of the plant thereby enabling the management of United to formulate an opinion as to the commercial feasibility of the process in relation to United business.

Said application having been filed on July 25, 1951, and notice of said application having been given in the form and manner prescribed by Rule U-23 promulgated under the act, and the Commission not having received a request for a hearing with respect to said application within the time specified in said notice or otherwise, and the Commission not having ordered a hearing thereon; and

The Commission finding with respect to said application that the requirements of the applicable provisions of the act and the rules and regulations thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application be granted, effective forthwith:

It is ordered, Effective forthwith, that pursuant to Rule U-23 and the applicable provisions of the Public Utility Holding Company Act of 1935, said application be, and the same hereby is, granted, subject to the terms and conditions prescribed by Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-10939; Filed, Sept. 11, 1951; 8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 18430]

GERMAN AND JAPANESE NATIONALS

In re: United States currency owned by German and Japanese nationals.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the owners of the property described in subparagraph 3 hereof, who are citizens of Germany and residents of Japan, are nationals of designated enemy countries (Germany and Japan);

2. That the property described in subparagraph 3 hereof represents United States currency which was received by the Supreme Commander for the Allied Powers, Tokyo, Japan, from the persons identified in subparagraph 1 hereof;

3. That the property described as follows: The sum of $235,601.41 now under the control of the Supreme Commander for the Allied Powers, Tokyo, Japan, representing United States currency received from certain German citizens residing in Japan by the Supreme Commander for the Allied Powers, Tokyo, Japan,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of designated enemy countries (Germany and Japan);

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be

treated as nationals of designated enemy countries (Germany and Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 7, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-10990; Filed, Sept. 11, 1951; 8:53 a. m.]

[Vesting Order 18431]

YOKOHAMA SPECIE BANK

In re: United States Currency owned by Yokohama Specie Bank. F-39-775.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Yokohama Specie Bank, the last known address of which is Tokyo, Japan, is a corporation, partnership, association or other business organization, organized under the laws of Japan, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Tokyo, Japan, and is a national of a designated enemy country (Japan);

2. That the property described as follows:

The sum of $187,336.00 presently under the control of the Supreme Commander for the Allied Powers, Tokyo, Japan, representing United States currency surrendered to the Supreme Commander for the Allied Powers by Yokohama Specie Bank, Tokyo, Japan,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 7, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-10991; Filed, Sept 11, 1951; 8:53 a. m.]

[Vesting Order 18432]

HIDETARO ANO

In re: Interest in funds and claims of the personal representatives, heirs, next of kin, legatees and distributees of Hidetaro Ano, deceased. D-39-3268.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next of kin, legatees and distributees of Hidetaro Ano, deceased, who there is reasonable cause to believe are residents of Japan are nationals of a designated enemy country (Japan);

2. That the property described as follows:

a. Any and all rights and interests in any funds presently on deposit with the Bureau of Accounts, Treasury Department, Washington, D. C., in a special deposit account entitled "Secretary of the Treasury, Proceeds of Withheld Foreign Checks", representing the proceeds of withheld checks drawn for payment of Railroad Retirement Benefits to Hidetaro Ano, deceased, to January 1, 1947, and any and all rights to demand, enforce and collect the aforesaid funds, and

b. Any and all rights and claims to Railroad Retirement benefits under the Railroad Retirement Act of 1935 as amended (Pub. Law 399, 74th Cong. 1st Sess. 49th Stat. 967), to January 1, 1947, of Hidetaro Ano (died 12-6-50), Railroad Retirement Board reference No. A 268218, together with any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the personal representatives, heirs, next of kin, legatees and distributees of Hidetaro Ano, deceased, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the personal representatives, heirs, next of kin, legatees and distributees of Hidetaro Ano, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 7, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-10992; Filed, Sept. 11, 1951; 8:53 a. m.]

[Vesting Order 18433]

OKURA & Co.

In re: Bonds and debentures owned by Okura & Company. F-39-995.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Okura & Company, the last known address of which is Tokyo, Japan, is a corporation organized under the laws of Japan, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Japan and is a national of a designated enemy country (Japan);

2. That the property described as follows:

a. All those certain debts or other obligations matured or unmatured of the corporations whose names and addresses are listed in Exhibit A, set forth below and by reference made a part hereof, evidenced by the bonds and debentures described opposite said names in Exhibit A, together with any and all accruals to the aforesaid debts or other obligations and any and all rights to demand, enforce and collect the same, and together with any and all rights in, to and under the aforesaid bonds and debentures, and

b. Those certain debts or other obligations matured or unmatured evidenced by the United States Treasury bonds described in Exhibit B, set forth below and by reference made a part hereof, together with any and all accruals to the aforesaid debts or other obligations and any and all rights to demand, enforce and collect the same, and together with any and all rights in, to and under the aforesaid bonds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Okura & Company, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 7, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Name and address of corporation		*Description of bonds and debentures*
Southern Bell Telephone & Telegraph Co., Hurt Bldg., Atlanta, Ga.	9	Southern Bell Telephone & Telegraph Co. 40-year 3 percent debentures, due July 1, 1979, of $1,000 face value each and bearing the numbers M7680/5, M13560, M14055, and M14975.
The Pennsylvania R. R. Co., Philadelphia, Pa.	6	Pennsylvania R. R. Co. General Mortgage 5 Percent Series "B" bonds due Dec. 1, 1968, of $1,000 face value each and bearing the numbers 2782, 3087, 11044, 11050, 25668, and 25669.
The Texas Co., 135 East 42d St., New York 17, N. Y.	10	The Texas Corp. 3 percent debentures due 1965 of $1,000 face value each and bearing the numbers 14042/44 and 14053/59.
Louisville & Nashville R. R. Co., 71 Broadway, New York 6, N. Y.	10	Louisville & Nashville R. R. Co. Extended Unified Mortgage, Series A, 3½ percent bonds, due 1950, of $1,000 face value each and bearing the numbers A2213/22.
Pittsburgh, Cincinnati, Chicago & St. Louis R. R. Co., Philadelphia, Pa.	2	Pittsburgh, Cincinnati, Chicago & St. Louis R. R. Co. General Mortgage 4½ Percent Series "C" bonds, due July 1, 1977, of $1,000 face value each bearing the numbers 19773 and 19775.
United States Steel Corp., 71 Broadway, New York, N. Y.	10	United States Steel Corp. 2.15 Percent Serial Debentures, due May 1, 1950, of $1,000 face value each and bearing the numbers 47501/10.
Union Pacific R. R. Co., 120 Broadway, New York, N. Y.	10	Union Pacific R. R. Co. Refunding Mortgage Series A 3½ percent bonds, due June 1, 1980, of $1,000 face value each and bearing numbers 19716/25.

EXHIBIT B

5 United States Treasury 4¼ percent bonds, due 10/15/1952–47 of $1,000 face value each, and bearing the numbers: H00110758, B00110762, E00275545, G00042807 and B00046932.

1 United States Treasury 2 percent bond, due 12/15/1947 of $5,000 face value, and bearing the number: 6176.

1 United States Treasury 2¾ percent bond, due 3/15/1951–48 of $5,000 face value, and bearing the number: 2 B.

5 United States Treasury 2 percent bonds, due 12/15/1950–48 of $1,000 face value each, and bearing the numbers: 37893 C, 37894 D, 37895 E, 37896 F and 37897 H.

[F. R. Doc. 51–10993; Filed, Sept. 11, 1951; 8:53 a. m.]

[Vesting Order 18434]

HISATARO TERADA

In re: Debt owing to Hisataro Terada, also known as Robert Hisataro Terada. F–39–1274.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hisataro Terada, also known as Robert Hisataro Terada whose last known address is Japan, is a resident of Japan, and a national of a designated enemy country (Japan);

2. That the property described as follows: That certain debt or other obligation owing to Hisataro Terada, also known as Robert Hisataro Terada, by T. Terada Shoten, Honolulu, T. H., in the amount of $15,097.32, as of December 31, 1948, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 7, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51–10994; Filed, Sept. 11, 1951; 8:53 a. m.]

FRIEDA KORNER CALVORDE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property and Location

Frieda Korner Calvorde (Krels Gardelegen) Germany; Claim No. 43035; $1,925.07 in the Treasury of the United States.

Executed at Washington, D. C., on September 6, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 51–10996; Filed, Sept. 11, 1951; 8:53 a. m.]

CHARLES BERNHARDT

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to Section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Charles Bernhardt, London, England; Claim No. 1540; Property described in Vesting Order No. 201 (8 F. R. 625, January 16,

1943), relating to United States Letters Patent No. 2,234,362.

Executed at Washington, D. C., on September 6, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-10997; Filed, Sept. 11, 1951; 8:53 a. m.]

[Vesting Order 18435]

JUNNOSUKE TANJI

In re: Stock owned by Junnosuke Tanji. D-39-11904.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Junnosuke Tanji, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: One (1) share of $1,500.00 par value common capital stock of Southern California Flower Growers, Inc., 755 Wall Street, Los Angeles 14, California, a corporation organized under the laws of the State of California, evidenced by a certificate numbered 160, registered in the name of Junnosuke Tanji, and presently in the custody of Southern California Flower Growers, Inc., together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 7, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-10995; Filed, Sept. 11, 1951; 8:53 a. m.]